

SUMMARIZED RECORD OF TRIAL

(and accompanying papers)

of

Gary P. Pittman
(Name Last, First, Middle Initial)

(b)(6)
(Social Security Number)

Sergeant
(Rank)

HqBn, 1st MarDiv
(Unit Command Name)

USMC
(Branch of Service)

Camp Pendleton, CA
(Station or Ship)

By

GENERAL COURT-MARTIAL

Convened by

Commanding General
(Title of Convening Authority)

Marine Corps Base
(Unit/Command of Convening Authority)

Tried at

Camp Pendleton, California,
(Place or Places of Trial)

29 Apr; 28 Jun; 8, 28
Jul; 9, 10, 29 Aug; 31
Aug; 1-3 Sept 2004
(Date or Dates of Trial)

ACTION OF JUDGE ADVOCATE OR GENERAL COURT-MARTIAL CONVENING AUTHORITY (SPCM)/JAG(GCM)
RCM 1111 and 1112, MCM, 1984)

UNIT COMMAND NAME	LOCATION OF JUDGE ADVOCATE OR GENERAL COURT MARTIAL CONVENING AUTHORITY JAG	DATE RECORD RECEIVED
ACTION	DATE	REMARKS
FINAL DISPOSITION: Findings and sentence, as approved by convening authority, correct in law and fact; to file		
OR Findings and sentence, as modified or corrected (see remarks), correct in law and fact; to file		
Acquittal or sentence set aside (see remarks), to file		
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JUDGE ADVOCATE OR LAW SPECIALIST		
SIGNATURE	RANK	DATE SIGNED

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GENEVA CONVENTION (I)

Geneva, August 12, 1949

CONVENTION FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMED FORCES IN THE FIELD

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field of July 27, 1929, have agreed as follows:

CHAPTER I--*General Provisions.*

ARTICLE I

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

ARTICLE II

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

ARTICLE III

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

ARTICLE IV

Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded and sick, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict, received or interned in their territory, as well as to dead persons found.

ARTICLE V

For the protected persons who have fallen into the hands of the enemy, the present Convention shall apply until their final repatriation.

ARTICLE VI

In addition to the agreements expressly provided for in Articles X, XV, XXIII, XXVIII, XXXI, XXXVI, XXXVII and LII, the High Contracting

Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of the wounded and sick, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded and sick, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

ARTICLE VII

Wounded and sick, as well members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

ARTICLE VIII

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible, the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

ARTICLE IX

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded and sick, medical personnel and chaplains, and for their relief.

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ARTICLE X

The High Contracting Parties may at any time agree to entrust to a organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded and sick, or medical personnel and chaplains, do no benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever, in the present Convention, mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

ARTICLE XI

In cases where they deem it advisable in the interest of protected persons particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded and sick, members of medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting

Powers, may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

CHAPTER II—*Wounded and Sick.*

ARTICLE XII

Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances.

They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex.

The Party to the conflict which is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a part of its medical personnel and material to assist in their care.

ARTICLE XIII

The present Convention shall apply to the wounded and sick belonging to the following categories:

1. Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) That of being commanded by a person responsible for his subordinates;

(b) That of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a Government or an authority not recognized by the Detaining Power.

4. Persons who accompany the armed forces without actually being members thereof, such as civil members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany.

5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions in international law.

6. Inhabitants of a non-occupied territory who, on approach of the enemy, spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

ARTICLE XIV

Subject to the provisions of Article XII, the wounded and sick of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall apply to them.

ARTICLE XV

At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.

Whenever circumstances permit, an armistice or a suspension of fire shall be arranged, or local arrangements made, to permit the removal, exchange and transport of the wounded left on the battlefield.

Likewise, local arrangements may be concluded between Parties to the conflict for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.

ARTICLE XVI

Parties to the conflict shall record as soon as possible, in respect of each wounded, sick or dead person of the adverse Party falling into their hands, any particulars which may assist in his identification.

These records should if possible include:

- (a) designation of the Power on which he depends;
- (b) army, regimental, personal or serial number;
- (c) surname;

- (d) first name or names;
- (e) date of birth;
- (f) any other particulars shown on identity card or disc;
- (g) date and place of capture or death;
- (h) particulars concerning wounds or illness, or cause of death.

As soon as possible the above mentioned information shall be forwarded to the Information Bureau described in Article CXXII of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, which shall transmit this information to the Power on which these persons depend through the intermediary of the Protecting Power and of the Central Prisoners of War Agency.

Parties to the conflict shall prepare and forward to each other through the same bureau, certificates of death or duly authenticated lists of the dead. They shall likewise collect and forward through the same bureau one half of a double identity disc, last wills or other documents of importance to the next of kin, money and in general all articles of an intrinsic or sentimental value, which are found on the dead. These articles, together with unidentified articles, shall be sent in sealed packets, accompanied by statements giving all particulars necessary for identification of the deceased owners, as well as by a complete list of the contents of the parcel.

ARTICLE XVII

Parties to the conflict shall ensure that burial or cremation of the dead, carried out individually as far as circumstances permit, is preceded by a careful examination, if possible by a medical examination, of the bodies, with a view to confirming death, establishing identity and enabling a report to be made. One half of the double identity disc, or the identity disc itself if it is a single disc, should remain on the body.

Bodies shall not be cremated except for imperative reasons of hygiene or for motives based on the religion of the deceased. In case of cremation, the circumstances and reasons for cremation shall be stated in detail in the death certificate or on the authenticated list of the dead.

They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that their graves are respected, grouped if possible according to the nationality of the deceased, properly maintained and marked so that they may always be found. For this purpose, they shall organize at the commencement of hostilities an Official Graves Registration Service, to allow subsequent exhumations and to ensure the identification of bodies, whatever the site of the graves, and the possible transportation to the home country. These provisions shall likewise apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Information Bureau mentioned in the

second paragraph of Article XVI, lists showing the exact location and marking of the graves, together with particulars of the dead interred therein.

ARTICLE XVIII

The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse Party take or retake control of the area, it shall likewise grant these persons the same protection and the same facilities.

The military authorities shall permit the inhabitants and relief societies even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence.

No one may ever be molested or convicted for having nursed the wounded or sick.

The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

CHAPTER III—*Medical Units and Establishments.*

ARTICLE XIX

Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing Power has not itself ensured the necessary care of the wounded and sick found in such establishments and units.

The responsible authorities shall ensure that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot imperil their safety.

ARTICLE XX

Hospital ships entitled to the protection of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, shall not be attacked from the land.

ARTICLE XXI

The protection to which fixed establishments and mobile medical units of the Medical Service are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may,

however, cease only after a due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded.

ARTICLE XXII

The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Article XIX:

- (1) That the personnel of the unit or establishment are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge.
- (2) That in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort.
- (3) That small arms and ammunition taken from the wounded and sick and not yet handed to the proper service are found in the unit or establishment.
- (4) That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof.
- (5) That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

ARTICLE XXIII

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital zones and localities.

CHAPTER IV—*Personnel.*

ARTICLE XXIV

Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances.

ARTICLE XXV

Members of the armed forces specially trained for employment, should need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in search for or the collection, transport or treatment of the wounded and likewise be respected and protected if they are carrying out these duties at time when they come into contact with the enemy or fall into his hands.

ARTICLE XXVI

The staff of National Red Cross Societies and that of other Voluntary Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article XXIV, shall be placed on the same footing as the personnel named in the said Article, provided that the staff of such societies are subject to military laws and regulations.

Each High Contracting Party shall notify to the other, either in time of peace, or at the commencement of or during hostilities, but in any case before actually employing them, the names of the societies which it has authorized under its responsibility, to render assistance to the regular medical service of the armed forces.

ARTICLE XXVII

A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a Party to the conflict with the previous consent of its own Government and the authorization of the Party to the conflict concerned. That personnel and those units shall be placed under the control of that Party to the conflict.

The neutral Government shall notify this consent to the adversary of the State which accepts such assistance. The Party to the conflict who accepts such assistance is bound to notify the adverse Party thereof before making any use of it.

In no circumstances shall this assistance be considered as interference in the conflict.

The members of the personnel named in the first paragraph shall be duly furnished with the identity cards provided for in Article XL before leaving the neutral country to which they belong.

ARTICLE XXVIII

Personnel designated in Articles XXIV and XXVI who fall into the hands of the adverse Party shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention

relative to the Treatment of Prisoners of War of August 12, 1949. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:

(a) They shall be authorized to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.

(b) In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article XXVI. In all questions arising out of their duties, this medical officer, and the chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions.

(c) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.

During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief.

None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war.

ARTICLE XXIX

Members of the personnel designated in Article XXV who have fallen into the hands of the enemy, shall be prisoners of war, but shall be employed on their medical duties in so far as the need arises.

ARTICLE XXX

Personnel whose retention is not indispensable by virtue of the provisions of Article XXVIII shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit.

Pending their return, they shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. They shall

continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong.

On their departure, they shall take with them the effects, personal belongings, valuables and instruments belonging to them.

ARTICLE XXXI

The selection of personnel for return under Article XXX shall be made irrespective of any consideration of race, religion or political opinion, but preferably according to the chronological order of their capture and their state of health.

As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps.

ARTICLE XXXII

Persons designated in Article XXVII who have fallen into the hands of the adverse Party may not be detained.

Unless otherwise agreed, they shall have permission to return to the country, or if this is not possible, to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit.

Pending their release, they shall continue their work under the direction of the adverse Party; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were.

On their departure, they shall take with them their effects, personal articles and valuables and the instruments, arms and if possible the means of transport belonging to them.

The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality and variety to keep the said personnel in a normal state of health.

CHAPTER V—*Buildings and Material.*

ARTICLE XXXIII

The material of mobile medical units of the armed forces which fall into the hands of the enemy shall be reserved for the care of wounded and sick.

The buildings, material and stores of fixed medical establishments of the armed forces shall remain subject to the laws of war, but may not be diverted

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from their purpose as long as they are required for the care of wounded and sick. Nevertheless, the commanders of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements of the welfare of the wounded and sick who are nursed in them.

The material and stores defined in the present Article shall not be intentionally destroyed.

ARTICLE XXXIV

The real and personal property of aid societies which are admitted to the privileges of the Convention shall be regarded as private property.

The right of requisition recognized for belligerents by the laws and customs of war shall not be exercised except in case of urgent necessity, and only after the welfare of the wounded and sick has been ensured.

CHAPTER VI—*Medical Transports.*

ARTICLE XXXV

Transports of wounded and sick or of medical equipment shall be respected and protected in the same way as mobile medical units.

Should such transports or vehicles fall into the hands of the adverse Party they shall be subject to the laws of war, on condition that the Party to the conflict who captures them shall in all cases ensure the care of the wounded and sick they contain.

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

ARTICLE XXXVI

Medical aircraft, that is to say, aircraft exclusively employed for the removal of wounded and sick and for the transport of medical personnel and equipment, shall not be attacked, but shall be respected by the belligerent while flying at heights, times and on routes specifically agreed upon between the belligerents concerned.

They shall bear, clearly marked, the distinctive emblem prescribed in Article XXXVIII, together with their national colours, on their lower, upper and lateral surfaces. They shall be provided with any other markings or means of identification that may be agreed upon between the belligerents upon the outbreak or during the course of hostilities.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Medical aircraft shall obey every summons to land. In the event of

In the event of an involuntary landing in enemy or enemy-occupied territory, the wounded and sick, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall be treated according to Article XXIV and the Articles following.

ARTICLE XXXVII

Subject to the provisions of the second paragraph, medical aircraft of Parties to the conflict may fly over the territory of neutral Powers, land on it in case of necessity, or use it as a port of call. They shall give the neutral Powers previous notice of their passage over the said territory and obey all summons to alight, on land or water. They will be immune from attack only when flying on routes, at heights and at times specifically agreed upon between the Parties to the conflict and the neutral Power concerned.

The neutral Powers may, however, place conditions or restrictions on the passage or landing of medical aircraft on their territory. Such possible conditions or restrictions shall be applied equally to all Parties to the conflict.

Unless agreed otherwise between the neutral Power and the Parties to the conflict, the wounded and sick who are disembarked, with the consent of the local authorities, on neutral territory by medical aircraft, shall be detained by the neutral Power, where so required by international law, in such a manner that they cannot again take part in operations of war. The cost of their accommodation and internment shall be borne by the Power on which they depend.

CHAPTER VII—*The Distinctive Emblem.*

ARTICLE XXXVIII

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the Medical Service of armed forces.

Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.

ARTICLE XXXIX

Under the direction of the competent military authority, the emblem shall be displayed on the flags, armlets and on all equipment employed in the Medical Service.

ARTICLE XL

The personnel designated in Article XXIV and in Articles XXVI and XXVII shall wear, affixed to the left arm, a water-resistant armlet bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel, in addition to wearing the identity disc mentioned in Article XVI, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first names, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his finger-prints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet. In case of loss, they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

ARTICLE XLI

The personnel designated in Article XXV shall wear, but only while carrying out medical duties, a white armlet bearing in its centre the distinctive sign in miniature; the armlet shall be issued and stamped by the military authority.

Military identity documents to be carried by this type of personnel shall specify what special training they have received, the temporary character of the duties they are engaged upon, and their authority for wearing the armlet.

ARTICLE XLII

The distinctive flag of the Convention shall be hoisted only over such medical units and establishments as are entitled to be respected under the Convention, and only with the consent of the military authorities.

In mobile units, as in fixed establishments, it may be accompanied by the national flag of the Party to the conflict to which the unit or establishment belongs.

Nevertheless, medical units which have fallen into the hands of the enemy shall not fly any flag other than that of the Convention.

Parties to the conflict shall take the necessary steps, in so far as military considerations permit, to make the distinctive emblems indicating medical units and establishments clearly visible to the enemy land, air or naval forces, in order to obviate the possibility of any hostile action.

ARTICLE XLIII

The medical units belonging to neutral countries, which may have been authorized to lend their services to a belligerent under the conditions laid down in Article XXVII, shall fly, along with the flag of the Convention, the national flag of that belligerent, wherever the latter makes use of the faculty conferred on him by Article XLII.

* * *

ARTICLE XLVII

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instructions, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.

ARTICLE XLVIII

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

CHAPTER IX—*Repression of Abuses and Infractions.*

ARTICLE XLIX

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article CV and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

ARTICLE L

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

ARTICLE LI

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

ARTICLE LII

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

ARTICLE LIII

The use by individuals, societies, firms or companies either public or private, other than those entitled thereto under the present Convention, of the emblem or the designation "Red Cross" or "Geneva Cross," or any sign or designation constituting an imitation thereof, whatever the object of such use, and irrespective of the date of its adoption, shall be prohibited at all times.

By reason of the tribute paid to Switzerland by the adoption of the reversed Federal colours, and of the confusion which may arise between the arms of Switzerland and the distinctive emblem of the Convention, the use by private individuals, societies or firms, of the arms of the Swiss Confederation, or of marks constituting an imitation thereof, whether as trade-marks or commercial marks, or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment, shall be prohibited at all times.

Nevertheless, such High Contracting Parties as were not party to the Geneva Convention of July 27, 1929, may grant to prior users of the emblems, designations, signs or marks designated in the first paragraph a time limit not

to exceed three years from the coming into force of the present Convention discontinue such use, provided that the said use shall not be such as would appear, in time of war, to confer the protection of the Convention.

The prohibition laid down in the first paragraph of the present Article shall also apply, without effect on any rights acquired through prior use, to the emblems and marks mentioned in the second paragraph of Article XXXVIII.

ARTICLE LIV

The High Contracting Parties shall, if their legislation is not already adequate, take measures necessary for the prevention and repression, at all times, of the abuses referred to under Article LIII.

Final Provisions

ARTICLE LV

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

ARTICLE LVI

The present Convention, which bears the date of this day, is open for signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, Powers not represented at that Conference, but which are parties to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field.

ARTICLE LVII

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, whose accession has been notified.

ARTICLE LVIII

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

ARTICLE LIX

The present Convention replaces the Conventions of August 22, 1864, July 6, 1906, and July 27, 1929, in relations between the High Contracting Parties.

ARTICLE LX

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

ARTICLE LXI

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

ARTICLE LXII

The situations provided for in Articles II and III shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

ARTICLE LXIII

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

ARTICLE LXIV

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

In Witness Whereof the undersigned, having deposited their respective full powers, have signed the present Convention.

Done at Geneva this twelfth day of August, 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.¹

[For Afghanistan]
M. OSMAN AMIRI

[For Chile]
F. CISTERNAS ORTIZ

[For the People's Republic of Albania]
J. MALO

[For China]
WU NAN-JU

[For Argentina]
GUILLERMO A. SPERONI

[For Colombia]
RAFAEL ROCHA SCHLOSS

[For Australia]
NORMAN R. MIGHELL

[For Cuba]
J. DE LA LUZ LEÓN

[For Austria]
DR. RUD. BLUEHDORN

[For Denmark]
GEORG COHN
PAUL ISPEN
BAGGE

[For Belgium]
MAURICE BOURQUIN

[For the Byelorussian Soviet Socialist Republic]
N. KOUTEINIKOV

[For Egypt]
A. K. SAFWAT

[For Bolivia]
G. MEDEIROS

[For Ecuador]
ALEX. GASTELÚ

[For Brazil]
JOÃO PINTO DA SILVA
GENERAL FLORIANO DE LIMA BRAYNER

[For Spain]
LUIS CALDERÓN

[For the Bulgarian People's Republic]
K. B. SVETLOV

[For the United States of America]
LELAND HARRISON
RAYMUND J. T. YINGLING

[For Canada]
MAX H. WERSHOF

[For Ethiopia]
GACHAOU ZELLEKE

[For Ceylon]
V. COOMARASWAMY

[For Finland]
REINHOLD SVENTO

¹The United States Senate consented to ratification with reservations on July 6, 1955; for the reservations see p. 568-69.

TREATIES, CONVENTIONS, AND AGREEMENTS

5

[For France]

JACQUINOT
G. CAHEN-SALVADOR

[For Greece]

M. PESMAZOGLOU

[For Guatemala]

A. DUPONT-WILLEMEN

[For the Hungarian People's Republic]

ANNA KARA

[For India]

D. B. DESAI

[For Iran]

A. H. MEYKADEH

[For the Republic of Ireland]

SEAN MACBRIDE

[For Israel]

M. KAHANY

[For Italy]

GIACINTO AURITI
ETTORE BAISTROCCHI

[For the Lebanon]

MIKAOU

[For Liechtenstein]

COMTE F. WILCZEK

[For Luxemburg]

J. STURM

[For Mexico]

PEDRO DE ALBA
W. R. CASTRO

[For the Principality of Monaco]

M. LOZÉ

[For Nicaragua]

LIFSCHITZ

[For Norway]

ROLF ANDERSEN

[For New Zealand]

G. R. LAKING

[For Pakistan]

S. M. A. FARUKI, M. G.
A. H. SHAIKH

[For Paraguay]

CONRAD FEHR

[For the Netherlands]

J. BOSCH DE ROSENTHAL

[For Peru]

GONZALO PIZARRO

[For the Republic of the Philippines]

P. SEBASTIAN

[For Poland]

JULIAN PRZYBOS

[For Portugal]

G. CALDEIRA COELHO

[For the Rumanian People's Republic]

I. DRAGOMIR

[For the United Kingdom of Great Br.
and Northern Ireland]

ROBERT CRAIGIE
H. A. STRUTT
W. H. GARDNER

[For the Holy See]

PHILIPPE BERNARDINI

[For El Salvador]

R. A. BUSTAMANTE

[For Sweden]

STAFFAN SÖDERBLOM

[For Switzerland]

MAX PETITPIERRE
PLINIO BOLLA
COLONEL DIV. DU PASQUIER
PH. ZUTTER
H. MEULI

[For Syria]

OMAR EL DJABRI
A. GENNAOUI

[For Czechoslovakia]

TAUBER

PROSECUTION EXHIBIT 1
PAGE 21 OF 45

[For Turkey]

RANA TARHAN

[For Uruguay]

COLONEL HECTOR J. BLANCO

[For the Ukrainian Soviet Socialist Republic]

O. BOGOMOLETZ

[For Venezuela]

A. POSSE DE RIVAS

[For the Union of Soviet Socialist Republics]

N. SLAVIN

[For the Federal People's Republic of Yugoslavia]

MILAN RISTIĆ

ANNEX I

Draft Agreement Relating to Hospital Zones and Localities

ARTICLE I

Hospital zones shall be strictly reserved for the persons named in Article XXIII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, and for the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

ARTICLE II

No persons residing, in whatever capacity, in a hospital zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

ARTICLE III

The Power establishing a hospital zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

ARTICLE IV

Hospital zones shall fulfill the following conditions:

- (a) They shall comprise only a small part of the territory governed by the Power which has established them.
- (b) They shall be thinly populated in relation to the possibilities of accommodation.
- (c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.
- (d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

ARTICLE V

Hospital zones shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- (b) They shall in no case be defended by military means.

ARTICLE VI

Hospital zones shall be marked by means of red crosses (red crescents, red lions and suns) on a white background placed on the outer precincts and on the buildings. They may be similarly marked at night by means of appropriate illumination.

ARTICLE VII

The Powers shall communicate to all the High Contracting Parties in peacetime, or on the outbreak of hostilities, a list of the hospital zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly constituted.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article VIII.

ARTICLE VIII

Any Power having recognized one or several hospital zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissions, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, the members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

ARTICLE IX

Should the Special Commissions note any fact which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a

time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

ARTICLE X

Any Power setting up one or more hospital zones and localities, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by neutral Powers the persons who shall be members of the Special Commissions mentioned in Articles VIII and IX.

ARTICLE XI

In no circumstances may hospital zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

ARTICLE XII

In the case of occupation of a territory, the hospital zones therein shall continue to be respected and utilized as such.

Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

ARTICLE XIII

The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital zones.

RESERVATIONS MADE AT THE TIME OF SIGNATURE—AUGUST 12, 1949

PEOPLE'S REPUBLIC OF ALBANIA

Mr. Malo, First Secretary to the Albanian Legation in Paris:

1. Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

Article X: The People's Republic of Albania will not recognize a request by a Detaining Power to a humanitarian organization or to a neutral State to take the place of a Protecting Power, as being in order, unless the Power of which the protected persons are nationals has given its consent.

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2. Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

Article X: The People's Republic of Albania will not recognize a request by a Detaining Power to a humanitarian organization or to a neutral State to take the place of a Protecting Power, as being in order, unless the Power of which the protected persons are nationals has given its consent.

3. Convention relative to the Treatment of Prisoners of War.

Article X: The People's Republic of Albania will not recognize a request by a Detaining Power to a humanitarian organization or to a neutral State to take the place of a Protecting Power, as being in order, unless the Power of which the prisoners of war are nationals has given its consent.

Article XII: The People's Republic of Albania considers that in the case of prisoners of war being transferred to another Power by the Detaining Power, the responsibility for the application of the Convention to such prisoners of war will continue to rest with the Power which captured them.

Article LXXXV: The People's Republic of Albania considers that persons convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg trial, of war crimes and crimes against humanity, must be treated in the same manner as persons convicted in the country in question. Albania does not, therefore, consider herself bound by Article LXXXV so far as the category of persons mentioned in the present reservation is concerned.

4. Convention relative to the Protection of Civilian Persons in Time of War.

Article XI: The People's Republic of Albania will not recognize a request by a Detaining Power to a humanitarian organization or to a neutral State to take the place of a Protecting Power, as being in order, unless the Power of which the protected persons are nationals has given its consent.

Article XLV: The People's Republic of Albania considers that in the case of protected persons being transferred to another Power by the Detaining Power, the responsibility for the application of the Convention to such protected persons will continue to rest with the Detaining Power.

ARGENTINA

Mr. Speroni, First Secretary to the Argentine Legation in Berne, made the following reservation to the four Geneva Conventions:

The Argentine Government has followed the work of the Conference with interest and the Argentine Delegation has taken part in it with pleasure. The task was a difficult one, but as our President said at the closing meeting, we have succeeded.

Argentina, Gentlemen, has always taken a leading place among many other nations on the questions which have formed the subject of our discussions. I shall, therefore, sign the four Conventions in the name of my Government and subject to ratification, with the reservation that Article III, common to all four Conventions, shall be the only Article, to the exclusion of all others, which shall be applicable in the case of armed conflicts not of an international character. I shall likewise sign the Convention relative to the Protection of Civilian Persons with a reservation in respect of Article LXVIII.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

Mr. Kouteinikov, Head of the Delegation of the Byelorussian Soviet Socialist Republic:

1. On signing the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Government of the Byelorussian Soviet Socialist Republic makes the following reservation:

Article X: The Byelorussian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country in which the protected persons are nationals has been obtained.

2. On signing the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Government of the Byelorussian Soviet Socialist Republic makes the following reservation:

Article X: The Byelorussian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

3. On signing the Convention relative to the Treatment of Prisoners of War, the Government of the Byelorussian Soviet Socialist Republic makes the following reservations:

Article X: The Byelorussian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the prisoners of war are nationals has been obtained.

Article XII: The Byelorussian Soviet Socialist Republic does not consider as valid the freeing of a Detaining Power, which has transferred prisoners of war to another Power, from responsibility for the application of the Convention to such prisoners of war while the latter are in the custody of the Power accepting them.

Article LXXXV: The Byelorussian Soviet Socialist Republic does not consider itself bound by the obligation, which follows from Article LXXXV, to

extend the application of the Convention to prisoners of war who have been convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be subject to the conditions obtaining in the country in question for those who undergo the punishment.

4. On signing the Convention relative to the Protection of Civilian Persons in Time of War, the Government of the Byelorussian Soviet Socialist Republic feels called upon to make the following declaration:

Although the present Convention does not cover the civilian population in territory not occupied by the enemy and does not, therefore, completely meet humanitarian requirements, the Byelorussian Delegation, recognizing that the said Convention makes satisfactory provision for the protection of the civilian population in occupied territory and in certain other cases, declares that it is authorized by the Government of the Byelorussian Soviet Socialist Republic to sign the present Convention with the following reservations:

Article XI: The Byelorussian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by the Protecting Power, unless the consent of the Government of the country in which the protected persons are nationals has been obtained.

Article XLV: The Byelorussian Soviet Socialist Republic will not consider as valid the freeing of a Detaining Power, which has transferred protected persons to another Power, from responsibility for the application of the Convention to the persons transferred, while the latter are in the custody of the Power accepting them.

BRAZIL

Mr. Pinto da Silva, Consul-General of Brazil at Geneva, made the following reservations to the Geneva Convention relative to the Protection of Civilian Persons in Time of War:

"On signing the Convention relative to the Protection of Civilian Persons in Time of War, Brazil wishes to make two express reservations—in regard to Article XLIV, because it is liable to hamper the action of the Detaining Power, and in regard to Article XLVI, because the matter dealt with in its second paragraph is outside the scope of the Convention, the essential and specific purpose of which is the protection of persons and not of their property."

BULGARIAN PEOPLE'S REPUBLIC

Mr. Kosta B. Svetlov, Bulgarian Minister in Switzerland, made the following declaration:

"In my capacity as representative of the Government of the Bulgarian People's Republic, I have the pleasant duty of expressing here its satisfaction

having been able to take part in drawing up a humanitarian instrument of the highest international importance—a group of conventions for the protection of war victims.

“Nevertheless, my wish is that there shall be no need to apply them; that is to say, that we may exert every effort to prevent a new war, so that there may be no victims to be helped in accordance with the provisions of a convention.

“I must, first of all, express my Government’s deep regret that the majority of the Diplomatic Conference did not accept the Soviet Delegation’s proposal for the unconditional banning of atomic weapons and other weapons for the mass extermination of the population.”

Therefore, on signing the Conventions, the Government of the Bulgarian People’s Republic makes the following reservations, which constitute an integral part of the Conventions:

1. Convention relative to the Protection of Civilian Persons in Time of War of August 12th, 1949.

On signing the present Convention, the Government of the Bulgarian People’s Republic makes the following reservations, which constitute an integral part of the Convention:

“With regard to Article XI: The Bulgarian People’s Republic will not recognize as valid the action of a Detaining Power of civilian persons in time of war, in approaching a neutral Power or a humanitarian organization with a view to entrusting it with the protection of such persons without the consent of the Government of the country of which the latter are nationals.

“With regard to Article XLV: The Bulgarian People’s Republic will not consider the Detaining Power of civilian persons in time of war, which has transferred such persons to another Power which has agreed to accept them, as being freed from responsibility for applying the provisions of the Convention to such persons during the time that they are detained by the other Power.”

2. Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12th, 1949.

On signing the present Convention, the Government of the Bulgarian People’s Republic makes the following reservation, which constitutes an integral part of the Convention:

“With regard to Article X: The Bulgarian People’s Republic will not recognize as valid the action of a Detaining Power of wounded, sick and shipwrecked persons or of medical personnel of armed forces at sea, in approaching a neutral Power or a humanitarian organization, with a view to entrusting it with the protection of such persons without the consent of the Government of the country of which the latter are nationals.”

3. Convention relative to the Treatment of Prisoners of War of August 12th, 1949.

On signing the present Convention, the Government of the Bulgarian People's Republic makes the following reservations, which constitute an integral part of the Convention:

"With regard to Article X: The Bulgarian People's Republic will not recognize as valid the action of a Detaining Power of prisoners of war, in approaching a neutral Power or a humanitarian organization with a view to entrusting it with the protection of such persons without the consent of the Government of the country of which the latter are nationals.

"With regard to Article XII: The Bulgarian People's Republic will not consider the Detaining Power of prisoners of war, which has transferred such persons to another Power which has agreed to accept them, as being freed from responsibility for applying the provisions of the Convention to such persons during the time that they are detained by the other Power.

"With regard to Article LXXXV: The Bulgarian People's Republic does not consider itself bound to extend the application of the provisions derived from Article LXXXV to prisoners of war convicted, under the law of the Detaining Power and in accordance with the principles of the Nuremberg trial, of war crimes or crimes against humanity which they committed before being taken prisoner, because those thus convicted must be subject to the regulations of the country in which they have to serve their sentence."

4. Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12th, 1949.

On signing the present Convention, the Government of the Bulgarian People's Republic makes the following reservation, which constitutes an integral part of the Convention.

"With regard to Article X: The Bulgarian People's Republic will not recognize as valid the action of a Detaining Power of wounded and sick persons or of medical personnel in armed forces in the field, in approaching a neutral Power or a humanitarian organization with a view to entrusting it with the protection of such persons without the consent of the Government of the country of which the latter are nationals."

CANADA

Mr. Wershof, Counsellor, Office of the High Commissioner for Canada in London, made the following reservation to the Geneva Convention for the Protection of Civilian Persons in Time of War:

"Canada reserves the right to impose the death penalty in accordance with the provisions of Article LXVIII, paragraph 2, without regard to whether the offences referred to therein are punishable by death under the law of the occupied territory at the time the occupation begins."

SPAIN

Mr. Calderón y Martín, Spanish Minister in Switzerland, made the following reservation to the Geneva Convention relative to the Treatment of Prisoners

of War, the text of the reservation being submitted in the Spanish, French and English languages:

"In matters regarding procedural guarantees and penal and disciplinary sanctions, Spain will grant prisoners of war the same treatment as is provided by her legislation for members of her own national forces.

Under International Law in Force (Article XCIX) Spain understands she only accepts that which arises from contractual sources or which has been previously elaborated by organizations in which she participates."

UNITED STATES OF AMERICA

Mr. Vincent, Minister of the United States of America in Switzerland, on signing the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12th, 1949, made the following declaration:

"The Government of the United States fully supports the objectives of this Convention.

"I am instructed by my Government to sign, making the following reservation to Article LXVIII:

"The United States reserves the right to impose the death penalty in accordance with the provisions of Article LXVIII, paragraph 2, without regard to whether the offences referred to therein are punishable by death under the law of the occupied territory at the time the occupation begins."

HUNGARIAN PEOPLE'S REPUBLIC

Mrs. Kara made the following reservations:

"At the meeting of the Diplomatic Conference on August 11th, 1949, the Delegation of the Hungarian People's Republic reserved the right to make express reservations on signing the Conventions, after having examined them. In their speech at the above meeting the Hungarian Delegation observed that they were not in agreement with all the provisions of the Conventions. After a thorough study of the text of the Conventions, the Government of the Hungarian People's Republic decided to sign the Conventions in spite of their obvious defects, as it considered that the Conventions constituted an advance in comparison with the existing situation from the point of view of the practical application of humanitarian principles and the protection of war victims.

"The Government of the Hungarian People's Republic is obliged to state that the concrete results achieved by the Diplomatic Conference which ended on August the 12th do not come up to expectations, since the majority of the members of the Conference did not adopt the proposals of the Soviet Delegation concerning the atomic weapon and other means of mass extermination of the population.

"The Delegation of the Hungarian People's Republic noted with regret the point of view of the majority of the Conference, which was contrary to the wishes of the nations engaged in the struggle for peace and liberty. The

Delegation of the Hungarian People's Republic is convinced that the adoption of the Soviet proposals would have been the most effective means of protecting war victims. The Delegation of the Hungarian People's Republic wishes, in particular, to point out the essential defects of the Convention relative to the Protection of Civilian Persons in Time of War; they drew the attention of the States taking part in the Conference to those defects during the meetings. A particular case in point is that of Article IV of the Convention; by virtue of that Article the provisions of the Civilians Convention do not apply to certain persons, because the States whose nationals they are have not adhered to the Convention. The Government of the Hungarian People's Republic considers that the above provision is contrary to the humanitarian principles which the Convention is intended to uphold.

"The Hungarian People's Government has also serious objections to Article V of the said Convention; according to the terms of that Article, if protected persons are definitely suspected of activities hostile to the security of the State, that is enough to deprive them of protection under the Convention. The Government of the Hungarian People's Republic considers that that provision has already made any hope of realizing the fundamental principles of the Convention illusory.

"The express reservations made by the Government of the Hungarian People's Republic on signing the Conventions are as follows:

"1. In the opinion of the Government of the Hungarian People's Republic, the provisions of Article X of the Wounded and Sick, Maritime Warfare and Prisoners of War Conventions and of Article XI of the Civilians Convention, concerning the replacement of the Protecting Power, can only be applied if the Government of the State of which the protected persons are nationals no longer exists.

"2. The Government of the Hungarian People's Republic cannot approve the provisions of Article XI of the Wounded and Sick, Maritime Warfare and Prisoners of War Conventions and of Article XII of the Civilians Convention, according to which the competence of the Protecting Power extends to the interpretation of the Convention.

"3. In regard to Article XII of the Convention relative to the Treatment of Prisoners of War, the Government of the Hungarian People's Republic maintains its point of view that in the case of the transfer of prisoners of war from one Power to another, the responsibility for the application of the provisions of the Conventions must rest with both of those Powers.

"4. The Delegation of the Hungarian People's Republic repeats the objection which it made, in the course of the meetings at which Article LXXXV of the Prisoners of War Convention was discussed, to the effect that prisoners of war convicted of war crimes and crimes against humanity in accordance with the principles of Nuremberg must be subject to the same treatment as criminals convicted of other crimes.

"5. Lastly, the Government of the Hungarian People's Republic maintains the point of view which it expressed in regard to Article XLV of the Civilians Convention, namely that, in the case of the transfer of protected persons from one Power to another, the responsibility for the application of the Convention must rest with both of those Powers."

ISRAEL

Mr. Kahany, Delegate of Israel to the European Office of the United Nations and to the International Committee of the Red Cross, made the following declaration:

"In accordance with instructions received from my Government, I shall sign the Geneva Convention relative to the Treatment of Prisoners of War without any reservation. But in the case of each of the other three Conventions, our signature will be given with reservations the purport of which is as follows:

"1. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

"Subject to the reservation that, while respecting the inviolability of the distinctive signs and emblems of the Convention, Israel will use the Red Shield of David as the emblem and distinctive sign of the medical services of her armed forces.

"2. Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

"Subject to the reservation that, while respecting the inviolability of the distinctive signs and emblems of the Convention, Israel will use the Red Shield of David on the flags, armlets and on all equipment (including hospital ships) employed in the medical service.

"3. Geneva Convention relative to the Protection of Civilian Persons in Time of War.

"Subject to the reservation that, while respecting the inviolability of the distinctive signs and emblems provided for in Article XXXVIII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, Israel will use the Red Shield of David as the emblem and distinctive sign provided for in this Convention."

ITALY

Mr. Auriti, Ambassador, made the following declaration concerning the Convention relative to the Treatment of Prisoners of War and Resolutions 6, 7 and 9 of the Diplomatic Conference of Geneva:

"1. Geneva Convention relative to the Treatment of Prisoners of War.

"The Italian Government declares that it makes a reservation in respect of the last paragraph of Article LXVI of the Convention relative to the Treatment of Prisoners of War.

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"2. Resolution 6 of the Diplomatic Conference of Geneva.

Whereas the Conference has recommended "that the High Contracting Parties will, in the near future, instruct a Committee of Experts to examine technical improvements of modern means of communication between hospital ships, on the one hand, and warships and military aircraft, on the other", the Italian Government expresses the hope that the said Committee of Experts may be convoked, if possible, during the coming months, in order that they may draw up an international code of rules for the use of the above means of communication.

"The Italian Armed Forces are at present engaged in making a thorough study of the above subject and will, if necessary, be ready to submit concrete proposals of a technical nature as a basis for discussion.

"3. Resolution 7 of the Diplomatic Conference of Geneva.

"The Italian Government is prepared to arrange that, whenever conveniently practicable, hospital ships shall frequently and regularly broadcast particulars of their position, route and speed.

"4. Resolution 9 of the Diplomatic Conference of Geneva.

"In regard to the second paragraph of Resolution 9, the Italian Government considers that the departments dealing with telecommunications in the countries of the High Contracting Parties must collaborate in drawing up some method of grouping telegrams of prisoners of war, so as to facilitate the transmission of numbered messages and thus avoid errors and the duplication of international transmissions and the consequent increase in their cost."

LUXEMBURG

Mr. Sturm, Chargé d'Affaires of Luxemburg in Switzerland, made the following reservation:

"The undersigned Delegate of the Grand Duchy of Luxemburg, duly empowered by its Government, has this eighth day of December, 1949, signed the Convention established by the Diplomatic Conference of Geneva relative to the Treatment of Prisoners of War, with the reservation:

"that its existing national law shall continue to be applied to cases now under consideration."

NEW ZEALAND

Mr. George Robert Laking, Counsellor to the New Zealand Embassy in Washington, made the following declaration:

"In signing the four Conventions established by the Diplomatic Conference at Geneva 1949, the New Zealand Government desire me to state that as there has been insufficient opportunity to study the reservations made on behalf of other States, the Government for the present reserve their views in regard to such reservations.

"In signing the Convention relating to the protection of civilian persons in time of war, the New Zealand Government desire me to make the following reservations:

"1. New Zealand reserves the right to impose the death penalty in accordance with the provisions of Article LXVIII, paragraph 2, without regard to whether the offences referred to therein are punishable by death under the law of the occupied territory at the time the occupation begins;

"2. In view of the fact that the General Assembly of the United Nations, having approved the principles established by the Charter and judgment of the Nuremberg Tribunal, has directed the International Law Commission to include these principles in a General codification of offences against the peace and security of mankind, New Zealand reserves the right to take such action as may be necessary to ensure that such offences are punished, notwithstanding the provisions of Article LXX, paragraph 1."

NETHERLANDS

Mr. Bosch, Chevalier van Rosenthal, Minister of the Netherlands in Switzerland, made the following declaration:

"My Government has instructed me to sign the four Conventions established at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, but my Government wishes to make the following reservation regarding the Convention relative to the Protection of Civilian Persons in Time of War, which reservation reads as follows:

"The Kingdom of the Netherlands reserves the right to impose the death penalty in accordance with the provisions of Article LXVIII, paragraph 2, without regard to whether the offences referred to therein are punishable by death under the law of the occupied territory at the time the occupation begins."

POLAND

Mr. Przybos, Polish Minister in Switzerland, made the following reservations concerning the four Geneva Conventions:

"1. On signing the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, I declare that the Government of the Polish Republic adheres to the said Convention, with a reservation in respect of Article X.

"The Government of the Polish Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of the wounded and sick, or medical personnel and chaplains, unless the Government whose nationals they are has given its consent.

"2. On signing the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, declare that the Government of the Polish Republic adheres to the said Convention, with a reservation in respect of Article X.

"The Government of the Polish Republic will not consider as legal request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of the wounded, sick and shipwrecked, or medical personnel and chaplains, unless the Government whose nationals they are has given its consent.

"3. On signing the Geneva Convention relative to the Treatment of Prisoners of War, I declare that the Government of the Polish Republic adheres to the said Convention, with reservations in respect of Articles X, XII and LXXXV.

"In regard to Article X, the Government of the Polish Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of prisoners of war, unless the Government whose nationals they are has given its consent.

"In regard to Article XII, the Government of the Polish Republic will not consider it legal for a Power, which effects a transfer of prisoners of war, to be freed from its responsibility for applying the Convention, even for the time during which such prisoners of war are in the custody of the Power accepting them.

"In regard to Article LXXXV, the Government of the Polish Republic will not consider it legal for prisoners of war convicted of war crimes and crime against humanity in accordance with the principles set forth at the time of the Nuremberg trials, to continue to enjoy protection under the present Convention it being understood that prisoners of war convicted of such crimes must be subject to the regulations for the execution of punishments, in force in the State concerned.

"4. On signing the Geneva Convention relative to the Protection of Civilian Persons in Time of War, I declare that the Government of the Polish Republic adheres to the said Convention, with reservations in respect of Articles XI and XLV.

"In regard to Article XI, the Government of the Polish Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of protected persons, unless the Government whose nationals they are has given its consent.

"In regard to Article XLV, the Government of the Polish Republic will not consider it legal for a Power, which effects a transfer of protected persons,

to be freed from its responsibility for applying the Convention, even for the time during which such protected persons are in the custody of the Power accepting them."

PORTUGAL

Mr. Goncalo Caldiera Coelho, Chargé d'Affaires of Portugal in Switzerland, made the following declaration:

"(a) Article III, common to the four Conventions:

"As there is no actual definition of what is meant by a conflict not of an international character, and as, in case this term is intended to refer solely to civil war, it is not clearly laid down at what moment an armed rebellion within a country should be considered as having become civil war, Portugal reserves the right not to apply the provisions of Article III, in so far as they may be contrary to the provisions of Portuguese law, in all territories subject to her sovereignty in any part of the world.

"(b) Article X of Conventions I, II and III and Article II of Convention IV:

"The Portuguese Government only accepts the above Articles with the reservation that requests by the Detaining Power to a neutral State or to a humanitarian organization to undertake the functions normally performed by Protecting Powers are made with the consent or agreement of the government of the country of which the persons to be protected are nationals (Countries of origin).

"(c) Article XIII of Convention I and Article IV of Convention III:

"The Portuguese Government makes a reservation regarding the application of the above Articles in all cases in which the legitimate Government has already asked for and agreed to an armistice or the suspension of military operations of no matter what character, even if the armed forces in the field have not yet capitulated.

"(d) Article LX of Convention III:

"The Portuguese Government accepts this Article with the reservation that it in no case binds itself to grant prisoners a monthly rate of pay in excess of 50% of the pay due to Portuguese soldiers of equivalent appointment or rank, on active service in the combat zone."

RUMANIAN PEOPLE'S REPUBLIC

Mr. Ioan Dragomir, Chargé d'Affaires of Rumania in Switzerland, made the following declaration:

"1. On signing the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Government of the Rumanian People's Republic makes the following reservation":

Article X: The Rumanian People's Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a

humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

"2. On signing the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Government of the Rumanian People's Republic makes the following reservation":

Article X: The Rumanian People's Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

"3. On signing the Convention relative to the Treatment of Prisoners of War, the Government of the Rumanian People's Republic makes the following reservations":

Article X: The Rumanian People's Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the prisoners of war are nationals has been obtained.

Article XII: The Rumanian People's Republic does not consider as valid the freeing of a Detaining Power, which has transferred prisoners of war to another Power, from responsibility for the application of the Convention to such prisoners of war while the latter are under the protection of the Power accepting them.

Article LXXXV: The Rumanian People's Republic does not consider itself bound by the obligation, which follows from Article LXXXV, to extend the application of the Convention to prisoners of war who have been convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be subject to the conditions obtaining in the country in question for those who undergo their punishment.

"4. I am authorized to make the following declaration on signing the Convention relative to the Protection of Civilian Persons in Time of War:

"The Government of the Rumanian People's Republic considers that this Convention does not completely meet humanitarian requirements, owing to the fact that it does not apply to the civilian population in territory not occupied by the enemy.

"Nevertheless, taking into consideration the fact that the Convention is intended to protect the interests of the civilian population in occupied territory, I am authorized by the Rumanian People's Government to sign the said Convention with the following reservations":

Article XI: The Rumanian People's Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a

humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

Article XLV: The Rumanian People's Republic will not consider as valid the freeing of a Detaining Power, which has transferred protected persons to another Power, from responsibility for the application of the Convention to the persons transferred, while the latter are under the protection of the Power accepting them.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Rt. Hon. Sir Robert Craigie, Foreign Office, made the following declaration:

"In signing the Convention relative to the Protection of Civilian Persons in Time of War, His Majesty's Government in the United Kingdom desire me to make the following reservation:

"The United Kingdom of Great Britain and Northern Ireland reserve the right to impose the death penalty in accordance with the provisions of Article LXVIII, paragraph 2, without regard to whether the offences referred to therein are punishable by death under the law of the occupied territory at the time the occupation begins."

CZECHOSLOVAKIA

Mr. Tauber, Minister of Czechoslovakia in Switzerland, made the following reservations:

"1. On proceeding to sign the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, I declare that the Government of the Czechoslovakian Republic adheres to the said Convention, with a reservation in respect of Article X.

"The Government of the Czechoslovakian Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of the wounded and sick, or medical personnel and chaplains, unless the Government whose nationals they are has given its consent.

"2. On proceeding to sign the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, I declare that the Government of the Czechoslovakian Republic adheres to the said Convention, with a reservation in respect of Article X.

"The Government of the Czechoslovakian Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of

the wounded, sick and shipwrecked, or medical personnel and chaplains, unless the Government whose nationals they are has given its consent.

"3. On proceeding to sign the Geneva Convention relative to the Treatment of Prisoners of War, I declare that the Government of the Czechoslovakian Republic adheres to the said Convention, with reservations in respect of Articles X, XII and LXXXV.

"In regard to Article X, the Government of the Czechoslovakian Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of prisoners of war, unless the Government whose national they are has given its consent.

"In regard to Article XII, the Government of the Czechoslovakian Republic will not consider it legal for a Power, which effects a transfer of prisoners of war, to be freed from its responsibility for applying the Convention, even for the time during which such prisoners of war are in the custody of the Power accepting them.

"In regard to Article LXXXV, the Government of the Czechoslovakian Republic will not consider it legal for prisoners of war convicted of war crimes and crimes against humanity in accordance with the principles set forth at the time of the Nuremberg trials, to continue to enjoy protection under the present Convention, it being understood that prisoners of war convicted of such crimes must be subject to the regulations for the execution of punishments, in force in the State concerned.

"4. On proceeding to sign the Geneva Convention relative to the Protection of Civilian Persons in Time of War, I declare that the Government of the Czechoslovakian Republic adheres to the said Convention, with reservations in respect of Articles XI and XLV.

"In regard to Article XI, the Government of the Czechoslovakian Republic will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of protected persons, unless the Government whose nationals they are has given its consent.

"In regard to Article XLV, the Government of the Czechoslovakian Republic will not consider it legal for a Power, which effects a transfer of protected persons, to be freed from its responsibility for applying the Convention, even for the time during which such protected persons are in the custody of the Power accepting them."

UKRAINIAN SOVIET SOCIALIST REPUBLIC

Mr. Bogomoletz, Head of the Delegation of the Ukrainian Soviet Socialist Republic:

"1. On signing the Convention for the Amelioration of the Condition of Wounded and Sick in Armed Forces in the Field, the Government of the Ukrainian Soviet Socialist Republic makes the following reservation":

Article X: The Ukrainian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State humanitarian organization, to undertake the functions performed by the Detaining Power, unless the consent of the Government of the Country of Origin of the protected persons are nationals has been obtained.

"2. On signing the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Government of the Ukrainian Soviet Socialist Republic makes the following reservation":

Article X: The Ukrainian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State humanitarian organization, to undertake the functions performed by the Detaining Power, unless the consent of the Government of the Country of Origin of the protected persons are nationals has been obtained.

"3. On signing the Convention relative to the Treatment of Prisoners of War, the Government of the Ukrainian Soviet Socialist Republic makes the following reservations":

Article X: The Ukrainian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State humanitarian organization, to undertake the functions performed by the Detaining Power, unless the consent of the Government of the country of Origin of the prisoners of war are nationals has been obtained.

Article XII: The Ukrainian Soviet Socialist Republic does not consider as valid the freeing of a Detaining Power, which has transferred prisoners of war to another Power, from responsibility for the application of the Convention to such prisoners of war while the latter are in the custody of the Detaining Power accepting them.

Article LXXXV: The Ukrainian Soviet Socialist Republic does not consider itself bound by the obligation, which follows from Article LXXIV, to extend the application of the Convention to prisoners of war who have been convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be subject to the conditions obtaining in the country in question for those who undergo punishment.

"4. On signing the Convention relative to the Protection of Civilian Persons in Time of War, the Government of the Ukrainian Soviet Socialist Republic feels called upon to make the following declaration:

"Although the present Convention does not cover the civilian population of the territory not occupied by the enemy and does not, therefore,

Convention makes satisfactory provision for the protection of the civilian population in occupied territory and in certain cases, declares that it is authorized by the Government of the Ukrainian Soviet Socialist Republic to sign the present Convention with the following reservations”:

Article XI: The Ukrainian Soviet Socialist Republic will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

Article XLV: The Ukrainian Soviet Socialist Republic will not consider as valid the freeing of a Detaining Power, which has transferred protected persons to another Power, from responsibility for the application of the Convention to the persons transferred, while the latter are in the custody of the Power accepting them.

UNION OF SOVIET SOCIALIST REPUBLICS

General Slavin, Head of the Delegation of the Union of Soviet Socialist Republics:

“1. On signing the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Government of the Union of Soviet Socialist Republics makes the following reservation”:

Article X: The Union of Soviet Socialist Republics will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

“2. On signing the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Government of the Union of Soviet Socialist Republics makes the following reservation”:

Article X: The Union of Soviet Socialist Republics will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

“3. On signing the Convention relative to the Treatment of Prisoners of War, the Government of the Union of Soviet Socialist Republics makes the following reservations”:

Article X: The Union of Soviet Socialist Republics will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the prisoners of war are nationals has been obtained.

Article XII: The Union of Soviet Socialist Republics does not consider as valid the freeing of a Detaining Power, which has transferred prisoners of war to another Power, from responsibility for the application of the Convention to such prisoners of war while the latter are in the custody of the Power accepting them.

Article LXXXV: The Union of Soviet Socialist Republics does not consider itself bound by the obligation, which follows from Article LXXXV, to extend the application of the Convention to prisoners of war who have been convicted under the law of the Detaining Power, in accordance with the principles of the Nuremberg trial, for war crimes and crimes against humanity, it being understood that persons convicted of such crimes must be subject to the conditions obtaining in the country in question for those who undergo their punishment.

"4. On signing the Convention relative to the Protection of Civilian Persons in Time of War, the Government of the Union of Soviet Socialist Republics feels called upon to make the following declaration:

"Although the present Convention does not cover the civilian population in territory not occupied by the enemy and does not, therefore, completely meet humanitarian requirements, the Soviet Delegation, recognizing that the said Convention makes satisfactory provision for the protection of the civilian population in occupied territory and in certain other cases, declares that it is authorized by the Government of the Union of Soviet Socialist Republics to sign the present Convention with the following reservations":

Article XI: The Union of Soviet Socialist Republics will not recognize the validity of requests by the Detaining Power to a neutral State or to a humanitarian organization, to undertake the functions performed by a Protecting Power, unless the consent of the Government of the country of which the protected persons are nationals has been obtained.

Article XLV: The Union of Soviet Socialist Republics will not consider as valid the freeing of a Detaining Power, which has transferred protected persons to another Power, from responsibility for the application of the Convention to the persons transferred, while the latter are in the custody of the Power accepting them.

FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA

Mr. Milan Ristic, Yugoslav Minister in Switzerland, made the following declaration:

"1. On signing the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, I declare that the Government of the Federal People's Republic of Yugoslavia adheres to the said Convention, with a reservation in respect of Article X.

"The Government of the Federal People's Republic of Yugoslavia will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the

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functions performed under the present Convention by the Protecting Powers, on behalf of the wounded and sick, or medical personnel and chaplains, unless the Government whose nationals they are has given its consent.

"2. On signing the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, I declare that the Government of the Federal People's Republic of Yugoslavia adheres to the said Convention, with a reservation in respect of Article X.

"The Government of the Federal People's Republic of Yugoslavia will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of the wounded, sick and shipwrecked, or medical personnel and chaplains, unless the Government whose nationals they are has given its consent.

"3. On signing the Geneva Convention relative to the Treatment of Prisoners of War, I declare that the Government of the Federal People's Republic of Yugoslavia adheres to the said Convention, with reservations in respect of Articles X and XII.

In regard to Article X, the Government of the Federal People's Republic of Yugoslavia will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of prisoners of war, unless the Government whose nationals they are has given its consent.

"In regard to Article XII, the Government of the Federal People's Republic of Yugoslavia will not consider that the Power which effected the transfer of prisoners of war is freed from its responsibility for the application of the Convention for the whole of the time during which such prisoners of war are in the custody of the Power accepting them.

"4. On signing the Geneva Convention relative to the Protection of Civilian Persons in Time of War, I declare that the Government of the Federal People's Republic of Yugoslavia adheres to the said Convention, with reservations in respect of Articles XI and XLV.

"In regard to Article XI, the Government of the Federal People's Republic of Yugoslavia will not consider as legal a request by the Detaining Power that a neutral State or an international organization or a humanitarian organization should undertake the functions performed under the present Convention by the Protecting Powers, on behalf of protected persons, unless the Government whose nationals they are has given its consent.

"In regard to Article XLV, the Government of the Federal People's Republic of Yugoslavia will not consider it legal for a Power, which effects a transfer of protected persons to another Power, to be freed from its responsibility for applying the Convention for the whole of the time during which such protected persons are in the custody of the Power accepting them."

UNITED STATES OF AMERICA

Whereas the Senate of the United States of America by their resolution of July 6, 1955, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said Convention with the following reservation:

The United States in ratifying the Geneva convention for the amelioration of the condition of the wounded and sick in armed forces in the field does so with the reservation that irrespective of any provision or provisions in said convention to the contrary, nothing contained therein shall make unlawful, or obligate the United States of America to make unlawful, any use or right of use within the United States of America and its territories and possessions of the Red Cross emblem, sign, insignia, or words as was lawful by reason of domestic law and a use begun prior to January 5, 1905, provided such use by pre-1905 users does not extend to the placing of the Red Cross emblem, sign, or insignia upon aircraft, vessels, vehicles, buildings or other structures, or upon the ground.

Whereas in giving advice and consent to the ratification of the said Convention, the Senate of the United States of America made the following statement:

Rejecting the reservations which States have made with respect to the Geneva convention for the amelioration of the condition of the wounded and sick in armed forces in the field, the United States accepts treaty relations with all parties to that convention, except as to the changes proposed by such reservations.

Whereas the said Convention was duly ratified by the President of the United States of America on July 14, 1955, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid reservation and statement;

Whereas it is provided in Article LVIII of the said Convention that the Convention shall come into force six months after not less than two instruments of ratification have been deposited, and that the Convention thereafter shall come into force for each High Contracting Party six months after the deposit of its instrument of ratification;

Whereas instruments of ratification of the said Convention were deposited with the Government of Switzerland by the Governments of the following States, namely: Switzerland, March 31, 1950; Yugoslavia, April 21, 1950; the Principality of Monaco, July 5, 1950; Liechtenstein, September 21, 1950; Chile, October 12, 1950; India, November 9, 1950; Czechoslovakia, December 19, 1950; the Holy See, February 22, 1951; the Republic of the Philippines, March 7, 1951; Lebanon, April 10, 1951; Pakistan, June 12, 1951; Denmark, June 27, 1951; France, June 28, 1951; Israel, July 6, 1951; Norway, August 3, 1951; Italy, December 17, 1951; Guatemala, May 14, 1952; Spain, August 4, 1952; Belgium, September 3, 1952; Mexico, October 29, 1952; Egypt, November 10,

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1952; El Salvador, June 17, 1953; Luxembourg, July 1, 1953; Austria, August 27, 1953; Syria, November 2, 1953; Nicaragua, December 17, 1953; Sweden, December 28, 1953; Turkey, February 10, 1954; Cuba, April 15, 1954; the Union of Soviet Socialist Republics, May 10, 1954; Rumania, June 1, 1954; Bulgaria, July 22, 1954; the Byelorussian Soviet Socialist Republic, August 1, 1954; Hungary, August 3, 1954; the Netherlands, August 3, 1954; the Ukrainian Soviet Socialist Republic, August 3, 1954; Ecuador, August 11, 1954; Poland, November 26, 1954; Finland, February 22, 1955; and the United States of America, August 2, 1955;

Whereas notifications of accession to the said Convention, in accordance with Article LXI thereof, were given to the Government of Switzerland by the Governments of the following States, namely: the Hashemite Kingdom of Jordan, May 29, 1951; the Union of South Africa, March 31, 1952; Japan, April 2, 1953; San Marino, August 29, 1953; Vietnam, November 14, 1953; Liberia, March 29, 1954; the Federal Republic of Germany, September 3, 1954; and Thailand, December 29, 1954;

And whereas, pursuant to the aforesaid provisions of Article LVIII of the said Convention, the Convention will come into force with respect to the United States of America on February 2, 1956, six months after August 2, 1955, the date of deposit by the United States of America of its instrument of ratification of the said Convention;

Now, therefore, be it known that I, Dwight D. Eisenhower, President of the United States of America, do hereby proclaim and make public the said Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field to the end that the same and every article and clause thereof, subject to the reservation and statement hereinbefore recited, shall be observed and fulfilled with good faith, on and after February 2, 1956, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this thirtieth day of August in the year of our Lord one thousand nine hundred fifty-five and of the Independence of the United States of America the one hundred eightieth.

[SEAL]

DWIGHT D. EISENHOWER
BY THE PRESIDENT:
HERBERT HOOVER JR
ACTING SECRETARY OF STATE

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GENEVA CONVENTION (III)

Geneva, August 12, 1949

CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR

THE UNDERSIGNED Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows:

PART I. GENERAL PROVISIONS

ARTICLE I

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

ARTICLE II

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

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ARTICLE III

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

ARTICLE IV

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

1. Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

2. Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

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(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

4. Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

6. Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

1. Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

2. The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles VIII, X, XV, XXX, fifth paragraph, LVIII-LXVII, XCII, CXXVI and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article XXXIII of the present Convention.

ARTICLE V

The present Convention shall apply to the persons referred to in Article IV from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article IV, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

ARTICLE VI

In addition to the agreements expressly provided for in Articles X, XXIII, XXVIII, XXXIII, LX, LXV, LXVI, LXVII, LXXII, LXXIII, LXXV, CIX, CX, CXVIII, CXIX, CXXII and CXXXII, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

ARTICLE VII

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

ARTICLE VIII

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particu-

lar, take account of the imperative necessities of security of the State wherein they carry out their duties.

ARTICLE IX

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

ARTICLE X

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

ARTICLE XI

In cases where they deem it advisable in the interest of protected persons particularly in cases of disagreement between the Parties to the conflict as to the

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application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

PART II. GENERAL PROTECTION OF PRISONERS OF WAR

ARTICLE XII

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power to whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

ARTICLE XIII

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

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ARTICLE XIV

Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

ARTICLE XV

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

ARTICLE XVI

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

PART III. CAPTIVITY

SECTION I. BEGINNING OF CAPTIVITY

ARTICLE XVII

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish

to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 X 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

ARTICLE XVIII

All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article LXIV.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

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ARTICLE XIX

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

ARTICLE XX

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

SECTION II. INTERNMENT OF PRISONERS OF WAR

CHAPTER I—*General Observations.*

ARTICLE XXI

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

ARTICLE XXII

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

ARTICLE XXIII

No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographic locations of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

ARTICLE XXIV

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

CHAPTER II—*Quarters, Food and Clothing of Prisoners of War.*

ARTICLE XXV

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war, individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

ARTICLE XXVI

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

ARTICLE XXVII

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for

the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

ARTICLE XXVIII

Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices.

The profits made by canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

CHAPTER III—*Hygiene and Medical Attention.*

ARTICLE XXIX

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

ARTICLE XXX

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

ARTICLE XXXI

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

ARTICLE XXXII

Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article XLIX.

CHAPTER IV—*Medical Personnel and Chaplains Retained to Assist Prisoners of War.*

ARTICLE XXXIII

Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be consid-

ered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious ministrations to prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

(a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article XXVI of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

CHAPTER V—*Religious, Intellectual and Physical Activities.*

ARTICLE XXXIV

Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

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ARTICLE XXXV

Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article XXXIII, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article LXXI.

ARTICLE XXXVI

Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

ARTICLE XXXVII

When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners' or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of view, shall be appointed, at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power, shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

ARTICLE XXXVIII

While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

CHAPTER VI—*Discipline.*

ARTICLE XXXIX

Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

ARTICLE XL

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

ARTICLE XLI

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article VI shall be posted, in the prisoners' own language, in places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

ARTICLE XLII

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

CHAPTER VII—*Ranks of Prisoners of War.*

ARTICLE XLIII

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article IV of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

ARTICLE XLIV

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

ARTICLE XLV

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

CHAPTER VIII—*Transfer of Prisoners of War
After Their Arrival in Camp.*

ARTICLE XLVI

The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions, especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

ARTICLE XLVII

Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

ARTICLE XLVIII

In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

SECTION III. LABOUR OF PRISONERS OF WAR

ARTICLE XLIX

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

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If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

ARTICLE L

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) agriculture;
- (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) transport and handling of stores which are not military in character or purpose;
- (d) commercial business, and arts and crafts;
- (e) domestic service;
- (f) public utility services having no military character or purpose.

Should the above be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article LXXVIII.

ARTICLE LI

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which such prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article LII, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

ARTICLE LII

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

ARTICLE LIII

The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of a longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

ARTICLE LIV

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article LXII of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence, of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article CXXIII.

ARTICLE LV

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

ARTICLE LVI

The organization and administration of labour detachments shall be similar to those of prisoners of war camps.

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Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

ARTICLE LVII

The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

SECTION IV. FINANCIAL RESOURCES OF PRISONERS OF WAR

ARTICLE LVIII

Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash, or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration, who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

ARTICLE LIX

Cash which was taken from prisoners of war, in accordance with Article XVIII, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed in their separate accounts, in accordance with the provisions of Article LXIV of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

ARTICLE LX

The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

- Category I : Prisoners ranking below sergeants: eight Swiss francs.
- Category II : Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.
- Category III : Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.
- Category IV : Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.
- Category V : General officers or prisoners of war of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) may temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

ARTICLE LXI

The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article LXIV. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

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ARTICLE LXII

Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

ARTICLE LXIII

Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependents shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power, a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulations in Annex V of the present Convention.

ARTICLE LXIV

The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

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1. The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

2. The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article LXIII, third paragraph.

ARTICLE LXV

Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

ARTICLE LXVI

On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

ARTICLE LXVII

Advances of pay, issued to prisoners of war in conformity with Article LX, shall be considered as made on behalf of the Power on which they depend.

Such advances of pay, as well as all payments made by the said Power under Article LXIII, third paragraph, and Article LXVIII, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

ARTICLE LXVIII

Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article LIV, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects, monies or valuables impounded by the Detaining Power under Article XVIII and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article CXXIII.

SECTION V. RELATIONS OF PRISONERS OF WAR WITH THE EXTERIOR

ARTICLE LXIX

Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

ARTICLE LXX

Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or to another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War

Agency provided for in Article CXXIII, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

ARTICLE LXXI

Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article LXX, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners of war's accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

ARTICLE LXXII

Prisoners of war shall be allowed to receive by post or by any other means individual parcels or collective shipments containing, in particular, foodstuffs, clothing, medical supplies and articles of a religious, educational or recreational character which may meet their needs, including books, devotional articles, scientific equipment, examination papers, musical instruments, sports outfits and materials allowing prisoners of war to pursue their studies or their cultural activities.

Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

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The only limits which may be placed on these shipments shall be those proposed by the Protecting Power in the interest of the prisoners themselves, or by the International Committee of the Red Cross or any other organization giving assistance to the prisoners, in respect of their own shipments only, on account of exceptional strain on transport or communications.

The conditions for the sending of individual parcels and collective relief shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the prisoners of relief supplies. Books may not be included in parcels of clothing and foodstuffs. Medical supplies shall, as a rule, be sent in collective parcels.

ARTICLE LXXIII

In the absence of special agreements between the Powers concerned on the conditions for the receipt and distribution of collective relief shipments, the rules and regulations concerning shipments, which are annexed to the present Convention, shall be applied.

The special agreements referred to above shall in no case restrict the right of prisoners' representatives to take possession of collective relief shipments intended for prisoners of war, to proceed to their distribution or to dispose of them in the interest of the prisoners.

Nor shall such agreements restrict the right of representatives of the Protecting Power, the International Committee of the Red Cross or any other organization giving assistance to prisoners of war and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

ARTICLE LXXIV

All relief shipments for prisoners of war shall be exempt from import, customs and other dues.

Correspondence, relief shipments and authorized remittances of money addressed to prisoners of war or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article CXXII and the Central Prisoners of War Agency provided for in Article CXXIII, shall be exempt from any postal dues, both in the countries of origin and destination, and in intermediate countries.

If relief shipments intended for prisoners of war cannot be sent through the post office by reason of weight or any other cause, the cost of transportation shall be borne by the Detaining Power in all the territories under its control. The other Powers party to the Convention shall bear the cost of transport in their respective territories.

In the absence of special agreements between the Parties concerned, the costs connected with transport of such shipments, other than costs covered by the above exemption, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the rates charged for telegrams sent by prisoners of war, or addressed to them.

ARTICLE LXXV

Should military operations prevent the Powers concerned from fulfilling their obligation to assure the transport of the shipments referred to in Articles LXX, LXXI, LXXII and LXXVII, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake to ensure the conveyance of such shipments by suitable means (railway wagons, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) correspondence, lists and reports exchanged between the Central Information Agency referred to in Article CXXIII and the National Bureaux referred to in Article CXXII;

(b) correspondence and reports relating to prisoners of war which the Protecting Powers, the International Committee of the Red Cross or any other body assisting the prisoners, exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport, if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

In the absence of special agreements, the costs occasioned by the use of such means of transport shall be borne proportionally by the Parties to the conflict whose nationals are benefited thereby.

ARTICLE LXXVI

The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

ARTICLE LXXVII

The Detaining Powers shall provide all facilities for the transmission, through the Protecting Power or the Central Prisoners of War Agency provided for in Article CXXIII, of instruments, papers or documents intended for prisoners of war or despatched by them, especially powers of attorney and wills.

In all cases they shall facilitate the preparation and execution of such documents on behalf of prisoners of war; in particular, they shall allow them to consult a lawyer and shall take what measures are necessary for the authentication of their signatures.

SECTION VI. RELATIONS BETWEEN PRISONERS OF WAR
AND THE AUTHORITIESCHAPTER I—*Complaints of Prisoners of War
Respecting the Conditions of Captivity.*

ARTICLE LXXVIII

Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article LXXI. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

CHAPTER II—*Prisoner of War Representatives.*

ARTICLE LXXIX

In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International

al Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

ARTICLE LXXX

Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the province of the prisoners' representative, in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

ARTICLE LXXXI

Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspection of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prison-

ers of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor considered as forming a part of the quota mentioned in Article LXXI.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

CHAPTER III—*Penal and Disciplinary Sanctions.*

I. *General Provisions*

ARTICLE LXXXII

A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power; the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

ARTICLE LXXXIII

In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

ARTICLE LXXXIV

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a

member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article CV.

ARTICLE LXXXV

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

ARTICLE LXXXVI

No prisoner of war may be punished more than once for the same act or on the same charge.

ARTICLE LXXXVII

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishment, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

ARTICLE LXXXVIII

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

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A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. *Disciplinary Sanctions*

ARTICLE LXXXIX

The disciplinary punishments applicable to prisoners of war are the following:

1. A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles LX and LXII during a period of not more than thirty days.

2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

3. Fatigue duties not exceeding two hours daily.

4. Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhumane, brutal or dangerous to the health of prisoners of war.

ARTICLE XC

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

LAW OF WAR

ARTICLE XCI

The escape of a prisoner of war shall be deemed to have succeeded when:

1. he has joined the armed forces of the Power on which he depends, or those of an allied Power;
2. he has left the territory under the control of the Detaining Power, or of an ally of the said Power;
3. he has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured shall not be liable to any punishment in respect of their previous escape.

ARTICLE XCII

A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article XCI shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article LXXXVIII, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

ARTICLE XCIII

Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article LXXXIII, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, or the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

ARTICLE XCIV

If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in Article CXXII, provided notification of his escape has been made.

ARTICLE XCV

A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles XCVII and XCVIII of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

ARTICLE XCVI

Acts which constitute offences against discipline shall be investigated immediately.

Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to inspection by representatives of the Protecting Power.

ARTICLE XCVII

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article XXV. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article XXIX.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

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ARTICLE XCVIII

A prisoner of war undergoing confinement as a disciplinary punishment shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles LXXVIII and CXXVI.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative, who will hand over to the infirmary the perishable goods contained in such parcels.

III. *Judicial Proceedings*

ARTICLE XCIX

No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

ARTICLE C

Prisoners of war and the Protecting Powers shall be informed as soon as possible of the offences which are punishable by the death sentence under the laws of the Detaining Power.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power on which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article LXXVII, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

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ARTICLE CI

If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article CVII.

ARTICLE CII

A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

ARTICLE CIII

Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles XCVII and XCVIII of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

ARTICLE CIV

In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

1. Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any;
2. Place of internment or confinement;
3. Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable;
4. Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the latter cannot take place and must be adjourned.

ARTICLE CV

The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held *in camera* in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

ARTICLE CVI

Every prisoner of war shall have, in the same manner as the members of the armed forces of the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of

the sentence or the reopening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

ARTICLE CVII

Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right of appeal with a view to the quashing of the sentence or the reopening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced on a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

1. the precise wording of the finding and sentence;
2. a summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;
3. notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing sub-paragraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power.

ARTICLE CVIII

Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles LXXVIII and CXXVI of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article LXXXVII, third paragraph.

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PART IV. TERMINATION OF CAPTIVITY

SECTION I. DIRECT REPATRIATION AND ACCOMMODATION
IN NEUTRAL COUNTRIES

ARTICLE CIX

Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article may be repatriated against his will during hostilities.

ARTICLE CX

The following shall be repatriated direct:

1. Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.
2. Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.
3. Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

1. Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.
2. Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfil in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

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1. Those whose state of health has deteriorated so as to fulfil the conditions laid down for direct repatriation;

2. Those whose mental or physical powers remain, even after treatment considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

ARTICLE CXI

The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

ARTICLE CXII

Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with provisions of the Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

ARTICLE CXIII

Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in the foregoing Article:

1. Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.

2. Wounded and sick proposed by their prisoners' representative.

3. Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

ARTICLE CXIV

Prisoners of war who meet with accidents shall, unless the injury is self-inflicted, have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

ARTICLE CXV

No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

ARTICLE CXVI

The cost of repatriating prisoners of war or of transporting them to a neutral country shall be borne, from the frontiers of the Detaining Power, by the Power on which the said prisoners depend.

ARTICLE CXVII

No repatriated person may be employed on active military service.

SECTION II. RELEASE AND REPATRIATION OF PRISONERS OF WAR AT THE CLOSE OF HOSTILITIES

ARTICLE CXVIII

Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

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In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(a) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(b) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

ARTICLE CXIX

Repatriation shall be effected in conditions similar to those laid down in Articles XLVI to XLVIII inclusive of the present Convention for the transfer of prisoners of war, having regard to the provisions of Article CXVIII and to those of the following paragraphs.

On repatriation, any articles of value impounded from prisoners of war under Article XVIII, and any foreign currency which has not been converted into the currency of the Detaining Power, shall be restored to them. Articles of value and foreign currency which, for any reason whatever, are not restored to prisoners of war on repatriation, shall be despatched to the Information Bureau set up under Article CXXII.

Prisoners of war shall be allowed to take with them their personal effects, and any correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of repatriation so require, to what each prisoner can reasonably carry. Each prisoner shall in all cases be authorized to carry at least twenty-five kilograms.

The other personal effect of the repatriated prisoner shall be left in the charge of the Detaining Power which shall have them forwarded to him as soon as it has concluded an agreement to this effect, regulating the conditions of transport and the payment of the costs involved, with the Power on which the prisoner depends.

Prisoners of war against whom criminal proceedings for an indictable offence are pending may be detained until the end of such proceedings, and, if

necessary, until the completion of the punishment. The same shall apply to prisoners of war already convicted for an indictable offence.

Parties to the conflict shall communicate to each other the names of any prisoners of war who are detained until the end of the proceedings or until punishment has been completed.

By agreement between the Parties to the conflict, commissions shall be established for the purpose of searching for dispersed prisoners of war and of assuring their repatriation with the least possible delay.

SECTION III. DEATH OF PRISONERS OF WAR

ARTICLE CXX

Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates, in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoner of War Information Bureau established in accordance with Article CXXII. The death certificates or certified lists shall show particulars of identity as set out in the third paragraph of Article XVII, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such

prisoners of war depended. Responsibility for the care of these graves and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

ARTICLE CXXI

Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

PART V. INFORMATION BUREAU AND RELIEF SOCIETIES FOR PRISONERS OF WAR

ARTICLE CXXII

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article IV, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article IV, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned, through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article CXXIII.

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This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article XVII, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communication made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

ARTICLE CXXIII

A Central Prisoners of War Information Agency shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency.

The function of the Agency shall be to collect all the information it may obtain through official or private channels respecting prisoners of war, and to transmit it as rapidly as possible to the country of origin of the prisoners of war or to the Power on which they depend. It shall receive from the Parties to the conflict all facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose national benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

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The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross, or of the relief societies provided for in Article CXXV.

ARTICLE CXXIV

The national Information Bureaux and the Central Information Agency shall enjoy free postage for mail, likewise all the exemptions provided for in Article CXXIV, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

ARTICLE CXXV

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organization assisting prisoners of war, shall receive from the said Powers, for themselves and their duly accredited agents, all necessary facilities for visiting the prisoners, for distributing relief supplies and material, from any source, intended for religious, educational or recreative purposes, and for assisting them in organizing their leisure time within the camps. Such societies or organizations may be constituted in the territory of the Detaining Power or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the effective operation of adequate relief to all prisoners of war.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

As soon as relief supplies or material intended for the above-mentioned purposes are handed over to prisoners of war, or very shortly afterwards, receipts for each consignment, signed by the prisoners' representative, shall be forwarded to the relief society or organization making the shipment. At the same time, receipts for these consignments shall be supplied by the administrative authorities responsible for guarding the prisoners.

PART VI. EXECUTION OF THE CONVENTION

SECTION I. GENERAL PROVISIONS

ARTICLE CXXVI

Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises

occupied by prisoners of war; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary, that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

ARTICLE CXXVII

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.

Any military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions.

ARTICLE CXXVIII

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

ARTICLE CXXIX

The High Contracting Parties undertake any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality,

before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article CV and those following of the present Convention.

ARTICLE CXXX

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

ARTICLE CXXXI

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

ARTICLE CXXXII

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION II. FINAL PROVISIONS

ARTICLE CXXXIII

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

ARTICLE CXXXIV

The present Convention replaces the Convention of July 27, 1929, in relations between the High Contracting Parties.

ARTICLE CXXXV

In the relations between the Powers which are bound by the Hague Convention respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and which are parties to the present Convention, this last Convention shall be complementary to Chapter II of the Regulations annexed to the above-mentioned Conventions of the Hague.

Article CXXXVI

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949; furthermore, by Powers not represented at that Conference, but which are parties to the Convention of July 27, 1929.

ARTICLE CXXXVII

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

ARTICLE CXXXVIII

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

ARTICLE CXXXIX

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

ARTICLE CXL

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

ARTICLE CXLI

The situations provided for in Articles II and III shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

ARTICLE CXLII

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council; However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with release and repatriation of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

ARTICLE CXLIII

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

In Witness Whereof the undersigned, having deposited their respective full powers, have signed the present Convention.

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Done at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.¹

Here follow same signature as Geneva, I, pp. 544-46.

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¹The United States Senate consented to ratification on July 6, 1955, with reservations.

GENEVA CONVENTION (IV)

Geneva, August 12, 1949

CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR

THE UNDERSIGNED Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War, have agreed as follows:

PART I. GENERAL PROVISIONS

ARTICLE I

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

ARTICLE II

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

ARTICLE III

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

ARTICLE IV

Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article XIII.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition

of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative to the Treatment of Prisoners of war of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention.

ARTICLE V

Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

ARTICLE VI

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article II.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: I to XII, XXVII, XXIX to XXXIV, XLVII, XLIX, LI, LII, LIII, LIX, LXI to LXXVII, CXLIII.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

ARTICLE VII

In addition to the agreements expressly provided for in Articles XI, XIV, XV, XVII, XXXVI, CVIII, CIX, CXXXII, CXXXIII and CXLIX, the High

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Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

ARTICLE VIII

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreement referred to in the foregoing Article, if such there be.

ARTICLE IX

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

ARTICLE X

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.

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ARTICLE XI

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The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applied to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has not normal diplomatic representation.

ARTICLE XII

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for protected persons, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

PART II. GENERAL PROTECTION OF POPULATIONS
AGAINST CERTAIN CONSEQUENCES OF WAR

ARTICLE XIII

The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

ARTICLE XIV

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant-mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

ARTICLE XV

Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

- (a) wounded and sick combatants or non-combatants;
- (b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

ARTICLE XVI

The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.

As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

ARTICLE XVII

The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

ARTICLE XVIII

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article XIX.

Civilian hospitals shall be marked by means of the emblem provided for in Article XXVIII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, but only if so authorized by the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

ARTICLE XIX

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded.

The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants and not yet handed to the proper service, shall not be considered to be acts harmful to the enemy.

ARTICLE XX

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on the left arm while carrying out their duties. This armlet shall be issued by the State and shall bear the emblem provided for in Article XXXVIII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armlet, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

ARTICLE XXI

Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article XVIII, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article XXXVIII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

ARTICLE XXII

Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases, or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article XXXVIII of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

ARTICLE XXIII

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

(a) that the consignments may be diverted from their destination,

(b) that the control may not be effective, or

(c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

ARTICLE XXIV

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

ARTICLE XXV

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article CXL, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of stand forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

ARTICLE XXVI

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

PART III. STATUS AND TREATMENT OF PROTECTED PERSONS

SECTION I. PROVISIONS COMMON TO THE TERRITORIES OF THE PARTIES TO THE CONFLICT AND TO OCCUPIED TERRITORIES

ARTICLE XXVII

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

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Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

ARTICLE XXVIII

The presence of a protected person may not be used to render certain points or areas immune from military operations.

ARTICLE XXIX

The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

ARTICLE XXX

Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them.

These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article CXLIII, the Detaining or Occupying Powers shall facilitate as much as possible visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

ARTICLE XXXI

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

ARTICLE XXXII

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

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LAW OF WAR

ARTICLE XXXIII

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

ARTICLE XXXIV

The taking of hostages is prohibited.

SECTION II. ALIENS IN THE TERRITORY OF A PARTY
TO THE CONFLICT

ARTICLE XXXV

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

ARTICLE XXXVI

Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

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ARTICLE XXXVII

Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated.

As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

ARTICLE XXXVIII

With the exception of special measures authorized by the present Convention, in particular by Articles XXVII and XLI thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

1. They shall be enabled to receive the individual or collective relief that may be sent to them.

2. They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.

3. They shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.

4. If they reside in an area particularly exposed to the dangers of war, they shall be authorised to move from that area to the same extent as the nationals of the State concerned.

5. Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

ARTICLE XXXIX

Protected persons who, as a result of the war, have lost their gainful employment shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article XL, be equal to that enjoyed by the nationals of the Power in whose territory they are.

Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article XXX.

ARTICLE XL

Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.

If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.

In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers, in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article XXX.

ARTICLE XLI

Should the Power in whose hands protected persons may be consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles XLII and XLIII.

In applying the provisions of Article XXIX, second paragraph, to the cases of persons required to leave their usual places of residence by virtue of a decision placing them in assigned residence elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

ARTICLE XLII

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

ARTICLE XLIII

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected

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persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

ARTICLE XLIV

In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality *de jure* of an enemy State, refugees who do not, in fact, enjoy the protection of any government.

ARTICLE XLV

Protected persons shall not be transferred to a Power which is not a party to the Convention.

This provision shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a party to the present Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the present Convention. If protected persons are transferred under such circumstances, responsibility for the application of the present Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs.

The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

ARTICLE XLVI

In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities.

Restrictive measures affecting their property shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.

SECTION III. OCCUPIED TERRITORIES

ARTICLE XLVII

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

ARTICLE XLVIII

Protected persons who are not nationals of the Power whose territory is occupied may avail themselves of the right to leave the territory subject to the provisions of Article XXXV, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

ARTICLE XLIX

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

ARTICLE L

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article CXXXVI shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

ARTICLE LI

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so

far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

ARTICLE LII

No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention.

All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

ARTICLE LIII

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

ARTICLE LIV

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not prejudice the application of the second paragraph of Article LI. It does not affect the right of the Occupying Power to remove public officials from their posts.

ARTICLE LV

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical

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supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

ARTICLE LVI

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article XVIII. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles XX and XXI.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

ARTICLE LVII

The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

ARTICLE LVIII

The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

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LAW OF WAR

ARTICLE LIX

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

ARTICLE LX

Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles LV, LVI and LIX. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.

ARTICLE LXI

The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.

All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.

ARTICLE LXII

Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.

ARTICLE LXIII

Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

(a) recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;

(b) the Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities.

The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues.

ARTICLE LXIV

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

ARTICLE LXV

The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

ARTICLE LXVI

In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article LXIV, the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

LAW OF WAR

ARTICLE LXVII

The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence. They shall take into consideration the fact that the accused is not a national of the Occupying Power.

ARTICLE LXVIII

Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article LXVI of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period.

The penal provisions promulgated by the Occupying Power in accordance with Articles LXIV and LXV may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced against a protected person who was under eighteen years of age at the time of the offence.

ARTICLE LIX

In all cases, the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.

ARTICLE LXX

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the

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occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

ARTICLE LXXI

No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons.

The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

- (a) description of the accused;
- (b) place of residence or detention;
- (c) specification of the charge or charges (with mention of the penal provisions under which it is brought);
- (d) designation of the court which will hear the case;
- (e) place and date of the first hearing.

ARTICLE LXXII

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him

with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

ARTICLE LXXIII

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

ARTICLE LXXIV

Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held *in camera* in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgment involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article LXXI, and, in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of judgments other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment of two years or more, shall not run until notification of judgment has been received by the Protecting Power.

ARTICLE LXXV

In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order denying pardon or reprieve.

The six months, period suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

ARTICLE LXXVI

Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in accordance with the provisions of Article CXLIII.

Such persons shall have the right to receive at least one relief parcel monthly.

ARTICLE LXXVII

Protected persons who have been accused of offences or convicted by the courts in occupied territory, shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

ARTICLE LXXVIII

If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

Protected persons made subject to assigned residence and thus required to

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leave their homes shall enjoy the full benefit of Article XXXIX of the present Convention.

SECTION IV. REGULATIONS FOR THE TREATMENT OF INTERNEES

CHAPTER I—*General Provisions.*

ARTICLE LXXIX

The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles XLI, XLII, XLIII, LXVIII and LXXVIII.

ARTICLE LXXX

Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status.

ARTICLE LXXXI

Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health.

No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

The Detaining Power shall provide for the support of those dependent on the internees, if such dependents are without adequate means of support or are unable to earn a living.

ARTICLE LXXXII

The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

CHAPTER II—*Places of Internment.*

ARTICLE LXXXIII

The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment.

Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

ARTICLE LXXXIV

Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

ARTICLE LXXXV

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas, or in districts the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is in an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

Whenever it is necessary, as an exceptional and temporary measure, to

accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

ARTICLE LXXXVI

The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services.

ARTICLE LXXXVII

Canteens shall be installed in every place of internment, except where other suitable facilities are available. Their purpose shall be to enable internees to make purchases, at prices not higher than local market prices, of foodstuffs and articles of everyday use, including soap and tobacco, such as would increase their personal well-being and comfort.

Profits made by canteens shall be credited to a welfare fund to be set up for each place of internment, and administered for the benefit of the internees attached to such place of internment. The Internee Committee provided for in Article CII shall have the right to check the management of the canteen and of the said fund.

When a place of internment is closed down, the balance of the welfare fund shall be transferred to the welfare fund of a place of internment for internees of the same nationality, or, if such a place does not exist, to a central welfare fund which shall be administered for the benefit of all internees remaining in the custody of the Detaining Power. In case of a general release, the said profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

ARTICLE LXXXVIII

In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All due precautions must be taken in places of internment against the danger of fire.

CHAPTER III—*Food and Clothing.*

ARTICLE LXXXIX

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.

Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.

Expectant and nursing mothers, and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

ARTICLE XC

When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power.

The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule.

Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires.

CHAPTER IV—*Hygiene and Medical Attention.*

ARTICLE XCI

Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as an appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.

Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population.

Internees shall, for preference, have the attention of medical personnel of their own nationality.

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Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article CXL.

Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee.

ARTICLE XCII

Medical inspections of internees shall be made at least once a month. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of internees, and to detect contagious diseases, especially tuberculosis, malaria, and venereal diseases. Such inspections shall include, in particular, the checking of weight of each internee and, at least once a year, radioscopic examination.

CHAPTER V—*Religious, Intellectual and Physical Activities.*

ARTICLE XCIII

Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities.

Ministers of religion who are interned shall be allowed to minister freely to the members of their community. For this purpose, the Detaining Power shall ensure their equitable allocation amongst the various places of internment in which there are internees speaking the same language and belonging to the same religion. Should such ministers be too few in number, the Detaining Power shall provide them with the necessary facilities, including means of transport, for moving from one place to another, and they shall be authorized to visit any internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the religious authorities in the country of detention and, as far as possible, with the international religious organizations of their faith. Such correspondence shall not be considered as forming a part of the quota mentioned in Article CVII. It shall, however, be subject to the provisions of Article CXII.

When internees do not have at their disposal the assistance of ministers of their faith, or should these latter be too few in number, the local religious authorities of the same faith may appoint, in agreement with the Detaining Power, a minister of the internees' faith or, if such a course is feasible from a

denominational point view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed. Persons so appointed shall comply with all regulations laid down by the Detaining Power in the interests of discipline and security.

ARTICLE XCIV

The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

ARTICLE XCV

The Detaining Power shall not employ internees as workers, unless they so desire. Employment which, if undertaken under compulsion by a protected person not in internment, would involve a breach of Articles XLI or LI of the present Convention, and employment on work which is of a degrading or humiliating character are in any case prohibited.

After a working period of six weeks, internees shall be free to give up work at any moment, subject to eight days' notice.

These provisions constitute no obstacle to the right of the Detaining Power to employ interned doctors, dentists and other medical personnel in their professional capacity on behalf of their fellow internees, or to employ internees for administrative and maintenance work in places of internment and to detail such persons for work in the kitchens or for other domestic tasks, or to require such persons to undertake duties connected with the protection internees against aerial bombardment or other war risks. No internee may, however, be required to perform tasks for which he is, in the opinion of a medical officer, physically unsuited.

The Detaining Power shall take entire responsibility for all working conditions, for medical attention, for the payment of wages, and for ensuring that all employed internees receive compensation for occupational accidents and diseases. The standards prescribed for the said working conditions and for compensation shall be in accordance with the national laws and regulations, and with the existing practice; they shall in no case be inferior to those obtaining for work of the same nature in the same district. Wages for work done shall be

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determined on an equitable basis by special agreements between the internees, the Detaining Power, and, if the case arises, employers other than the Detaining Power, due regard being paid to the obligation of the Detaining Power to provide for free maintenance of internees and for the medical attention which their state of health may require. Internees permanently detailed for categories of work mentioned in the third paragraph of this Article, shall be paid fair wages by the Detaining Power. The working conditions and the scale of compensation for occupational accidents and diseases to internees thus detailed shall not be inferior to those applicable to work of the same nature in the same district.

ARTICLE XCVI

All labour detachments shall remain part of and dependent upon a place of internment. The competent authorities of the Detaining Power and the commandant of a place of internment shall be responsible for the observance in a labour detachment of the provisions of the present Convention. The commandant shall keep an up-to-date list of the labour detachments subordinate to him and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross and of other humanitarian organizations who may visit the places of internment.

CHAPTER VI—*Personal Property and Financial Resources.*

ARTICLE XCVII

Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor.

The amounts shall be paid into the account of every internee as provided for in Article XCVIII. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent.

Articles which have above all a personal or sentimental value may not be taken away.

A woman internee shall not be searched except by a woman.

On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article XCVIII, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt.

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Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment.

Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases.

ARTICLE XCVIII

All internees shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as the income on their property in accordance with the law of the Detaining Power. The amount of allowances granted by the Power to which they owe allegiance shall be the same for each category of internees (infirm, sick pregnant women, etc.), but may not be allocated by that Power or distributed by the Detaining Power on the basis of discriminations between internees which are prohibited by Article XXVII of the present Convention.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which he is interned. Internees shall be granted all facilities consistent with the legislation in force in such territory to make remittances to their families and to other dependants. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. They shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts. A statement of accounts shall be furnished to the Protecting Power on request, and shall accompany the internee in case of transfer.

CHAPTER VII—*Administration and Discipline.*

ARTICLE XCIX

Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the

provisions of the present Convention and of the administrative measures adopted to ensure its application.

The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee.

Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment, in a language which they understand.

Every order and command addressed to internees individually, must likewise, be given in a language which they understand.

ARTICLE C

The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body is prohibited.

In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations are prohibited.

ARTICLE CI

Internees shall have the right to present to the authorities in whose power they are, any petition with regard to the conditions of internment to which they are subjected.

They shall also have the right to apply without restriction through the Internee Committee or, if they consider it necessary, direct to the representatives of the Protecting Power, in order to indicate to them any points on which they may have complaints to make with regard to the conditions of internment.

Such petitions and complaints shall be transmitted forthwith and without alteration, and even if the latter are recognized to be unfounded, they may not occasion any punishment.

Periodic reports on the situation in places of internment and as to the needs of the internees, may be sent by the Internee Committees to the representatives of the Protecting Powers.

ARTICLE CII

In every place of internment, the internees shall freely elect by secret ballot every six months, the members of a Committee empowered to represent them before the Detaining and the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. The members of the Committee shall be eligible for re-election.

Internees so elected shall enter upon their duties after their election has

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been approved by the detaining authorities. The reasons for any refusals or dismissals shall be communicated to the Protecting Powers concerned.

ARTICLE CIII

The Internee Committees shall further the physical, spiritual and intellectual well-being of the internees.

In case the internees decide, in particular, to organize a system of mutual assistance amongst themselves, this organization would be within the competence of the Committees in addition to the special duties entrusted to them under other provisions of the present Convention.

ARTICLE CIV

Members of Internee Committees shall not be required to perform any other work, if the accomplishment of their duties is rendered more difficult thereby.

Members of Internee Committees may appoint from amongst the internees such assistants as they may require. All material facilities shall be granted to them, particularly a certain freedom of movement necessary for the accomplishment of their duties (visits to labour detachments, receipt of supplies, etc.).

All facilities shall likewise be accorded to members of Internee Committees for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, and with the organizations which give assistance to internees. Committee members in labour detachments shall enjoy similar facilities for communication with their Internee Committee in the principal place of internment. Such communications shall not be limited, nor considered as forming a part of the quota mentioned in Article CVII.

Members of Internee Committees who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

CHAPTER VIII—*Relations with the Exterior.*

ARTICLE CV

Immediately upon interning protected persons, the Detaining Powers shall inform them, the Power to which they owe allegiance and their Protecting Power of the measures taken for executing the provisions of the present Chapter. The Detaining Powers shall likewise inform the Parties concerned of any subsequent modifications of such measures.

ARTICLE CVI

As soon as he is interned, or at the latest not more than one week after his arrival in a place of internment, and likewise in cases of sickness or transfer to another place of internment or to a hospital, every internee shall be enabled to

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send direct to his family, on the one hand, and to the Central Agency provided for by Article CXL, on the other, an internment card similar, if possible, to the model annexed to the present Convention, informing his relatives of his detention, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any way.

ARTICLE CVII

Internees shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each internee, the said number shall be less than two letters and four cards monthly; these shall be drawn up so as to conform as closely as possible to the models annexed to the present Convention. If limitations must be placed on the correspondence addressed to internees, they may be ordered only by the Power to which such internees owe allegiance, possibly at the request of the Detaining Power. Such letters and cards must be conveyed with reasonable despatch; they may not be delayed or retained for disciplinary reasons.

Internees who have been a long time without news, or who find it impossible to receive news from their relatives, or to give them news by the ordinary postal route, as well as those who are at a considerable distance from their homes, shall be allowed to send telegrams, the charges being paid by them in the currency at their disposal. They shall likewise benefit by this provision in cases which are recognized to be urgent.

As a rule, internees' mail shall be written in their own language. The Parties to the conflict may authorize correspondence in other languages.

ARTICLE CVIII

Internees shall be allowed to receive, by post or by any other means, individual parcels or collective shipments containing in particular foodstuffs, clothing, medical supplies, as well as books and objects of a devotional, educational or recreational character which may meet their needs. Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

Should military necessity require the quantity of such shipments to be limited, due notice thereof shall be given to the Protecting Power and to the International Committee of the Red Cross, or to any other organization giving assistance to the internees and responsible for the forwarding of such shipments.

The conditions for the sending of individual parcels and collective shipments shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the internees of relief supplies. Parcels of clothing and foodstuffs may not include books. Medical relief supplies shall, as a rule, be sent in collective parcels.

ARTICLE CIX

In the absence of special agreements between Parties to the conflict regarding the conditions for the receipt and distribution of collective relief shipments, the regulations concerning collective relief which are annexed to the present Convention shall be applied.

The special agreements provided for above shall in no case restrict the right of Internee Committees to take possession of collective relief shipments intended for internees, to undertake their distribution and to dispose of them in the interests of the recipients.

Nor shall such agreements restrict the right of representatives of the Protecting Powers, the International Committee of the Red Cross, or any other organization giving assistance to internees and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

ARTICLE CX

All relief shipments for internees shall be exempt from import, customs and other dues.

All matter sent by mail, including relief parcels sent by parcel post and remittances of money, addressed from other countries to internees or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article CXXXVI and the Central Information Agency provided for in Article CXL, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries. To this end, in particular, the exemption provided by the Universal Postal Convention of 1947 and by the agreements of the Universal Postal Union in favour of civilians of enemy nationality detained in camps or civilian prisons, shall be extended to the other interned persons protected by the present Convention. The countries not signatory to the above-mentioned agreements shall be bound to grant freedom from charges in the same circumstances.

The cost of transporting relief shipments which are intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. Other Powers which are Parties to the present Convention shall bear the cost of transport in their respective territories.

Costs connected with the transport of such shipments, which are not covered by the above paragraphs, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

ARTICLE CXI

Should military operations prevent the Powers concerned from fulfilling their obligations to ensure the conveyance of the mail and relief shipments

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provided for in Articles CVI, CVII, CVIII and CXIII, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake the conveyance of such shipments by suitable means (rail, motor vehicles, vessels or aircraft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport, and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

(a) correspondence, lists and reports exchanged between the Central Information Agency referred to in Article CXL and the National Bureaux referred to in Article CXXXVI,

(b) correspondence and reports relating to internees which the Protecting Powers, the International Committee of the Red Cross or any other organization assisting the internees exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

The costs occasioned by the use of such means of transport shall be borne, in proportion to the importance of the shipments, by the Parties to the conflict whose nationals are benefited thereby.

ARTICLE CXII

The censoring of correspondence addressed to internees or despatched by them shall be done as quickly as possible.

The examination of consignments intended for internees shall not be carried out under conditions that will expose the goods contained in them to deterioration. It shall be done in the presence of the addressee, or of a fellow-internee duly delegated by him. The delivery to internees of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by the Parties to the conflict either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

ARTICLE CXIII

The Detaining Powers shall provide all reasonable facilities for the transmission, through the Protecting Power or the Central Agency provided for in Article CXL, or as otherwise required, of wills, powers of attorney, letters of authority, or any other documents intended for internees or despatched by them.

In all cases the Detaining Powers shall facilitate the execution and authentication in due legal form of such documents on behalf of internees, in particular by allowing them to consult a lawyer.

ARTICLE CXIV

The Detaining Power shall afford internees all facilities to enable them to manage their property, provided this is not incompatible with the conditions of internment and the law which is applicable. For this purpose, the said Power may give them permission to leave the place of internment in urgent cases and if circumstances allow.

ARTICLE CXV

In all cases where an internee is a party to proceedings in any court, the Detaining Power shall, if he so requests, cause the court to be informed of his detention and shall, within legal limits, ensure that all necessary steps are taken to prevent him from being in any way prejudiced, by reason of his internment, as regards the preparation and conduct of his case or as regards the execution of any judgment of the court.

ARTICLE CXVI

Every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible.

As far as is possible, internees shall be permitted to visit their homes in urgent cases, particularly in cases of death or serious illness of relatives.

CHAPTER IX—*Penal and Disciplinary Sanctions.*

ARTICLE CXVII

Subject to the provisions of the present Chapter, the laws in force in the territory in which they are detained will continue to apply to internees who commit offences during internment.

If general laws, regulations or orders declare acts committed by internees to be punishable, whereas the same acts are not punishable when committed by persons who are not internees, such acts shall entail disciplinary punishments only.

No internee may be punished more than once for the same act, or on the same count.

ARTICLE CXVIII

The courts or authorities shall in passing sentence take as far as possible into account the fact that the defendant is not a national of the Detaining Power. They shall be free to reduce the penalty prescribed for the offence with

which the internee is charged and shall not be obliged, to this end, to apply the minimum sentence prescribed.

Imprisonment in premises without daylight and, in general, all forms of cruelty without exception are forbidden.

Imprisonment in premises without daylight and, in general, all forms of treated differently from other internees.

The duration of preventive detention undergone by an internee shall be deducted from any disciplinary or judicial penalty involving confinement to which he may be sentenced.

Internee Committees shall be informed of all judicial proceedings instituted against internees whom they represent, and of their result.

ARTICLE CXIX

The disciplinary punishments applicable to internees shall be the following:

1. A fine which shall not exceed 50 per cent of the wages which the internee would otherwise receive under the provisions of Article XCV during a period of not more than thirty days.

2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

3. Fatigue duties, not exceeding two hours daily, in connection with the maintenance of the place of internment.

4. Confinement.

In no case shall disciplinary penalties be inhuman, brutal or dangerous for the health of internees. Account shall be taken of the internee's age, sex and state of health.

The duration of any single punishment shall in no case exceed a maximum of thirty consecutive days, even if the internee is answerable for several breaches of discipline when his case is dealt with, whether such breaches are connected or not.

ARTICLE CXX

Internees who are recaptured after having escaped or when attempting to escape, shall be liable only to disciplinary punishment in respect of this act, even if it is a repeated offence.

Article CXVIII, paragraph 3, notwithstanding, internees punished as a result of escape or attempt to escape, may be subjected to special surveillance, on condition that such surveillance does not affect the state of their health, that it is exercised in a place of internment and that it does not entail the abolition of any of the safeguards granted by the present Convention.

Internees who aid and abet an escape or attempt to escape shall be liable on this count to disciplinary punishment only.

ARTICLE CXXI

Escape, or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance in cases where an internee is prosecuted for offences committed during his escape.

The Parties to the conflict shall ensure that the competent authorities exercise leniency in deciding whether punishment inflicted for an offence shall be of a disciplinary or judicial nature, especially in respect of acts committed in connection with an escape, whether successful or not.

ARTICLE CXXII

Acts which constitute offences against discipline shall be investigated immediately. This rule shall be applied, in particular, in cases of escape or attempt to escape. Recaptured internees shall be handed over to the competent authorities as soon as possible.

In case of offences against discipline, confinement awaiting trial shall be reduced to an absolute minimum for all internees, and shall not exceed fourteen days. Its duration shall in any case be deducted from any sentence of confinement.

The provisions of Articles CXXIV and CXXV shall apply to internees who are in confinement awaiting trial for offences against discipline.

ARTICLE CXXIII

Without prejudice to the competence of courts and higher authorities, disciplinary punishment may be ordered only by the commandant of the place of internment, or by a responsible officer or official who replaces him, or to whom he has delegated his disciplinary powers.

Before any disciplinary punishment is awarded, the accused internee shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced in the presence of the accused and of a member of the Internee Committee.

The period elapsing between the time of award of a disciplinary punishment and its execution shall not exceed one month.

When an internee is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

A record of disciplinary punishments shall be maintained by the commandant of the place of internment and shall be open to inspection by representatives of the Protecting Power.

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ARTICLE CXXIV

Internees shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

The premises in which disciplinary punishments are undergone shall conform to sanitary requirements; they shall in particular be provided with adequate bedding.

Internees undergoing punishment shall be enabled to keep themselves in a state of cleanliness.

Women internees undergoing disciplinary punishment shall be confined in separate quarters from male internees and shall be under the immediate supervision of women.

ARTICLE CXXV

Internees awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, if they so request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the infirmary of the place of internment or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of their punishment; such consignments shall meanwhile be entrusted to the Internee Committee, who will hand over to the infirmary the perishable goods contained in the parcels.

No internee given a disciplinary punishment may be deprived of the benefit of the provisions of Articles CVII and CXLIII of the present Convention.

ARTICLE CXXVI

The provisions of Articles LXXI to LXXVI inclusive shall apply, by analogy, to proceedings against internees who are in the national territory of the Detaining Power.

CHAPTER X—*Transfers of Internees.*

ARTICLE CXXVII

The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. If, as an exceptional measure, such removals

have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue.

The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.

Sick, wounded or infirm internees and maternity cases shall not be transferred if the journey would be seriously detrimental to them, unless their safety imperatively so demands.

If the combat zone draws close to a place of internment, the internees in the said place shall not be transferred unless their removal can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

When making decisions regarding the transfer of internees, the Detaining Power shall take their interests into account and, in particular, shall not do anything to increase the difficulties of repatriating them or returning them to their own homes.

ARTICLE CXXVIII

In the event of transfer, internees shall be officially advised of their departure and of their new postal address. Such notification shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited if the conditions of transfer so require, but in no case to less than twenty-five kilograms per internee.

Mail and parcels addressed to their former place of internment shall be forwarded to them without delay.

The commandant of the place of internment shall take, in agreement with the Internee Committee, any measures needed to ensure the transport of the internees' community property and of the luggage the internees are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph.

CHAPTER XI—Deaths.

ARTICLE CXXIX

The wills of internees shall be received for safe-keeping by the responsible authorities; and in the event of the death of an internee his will shall be transmitted without delay to a person whom he has previously designated.

Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the causes of death and the conditions under which it occurred.

An official record of the death, duly registered, shall be drawn up in accordance with procedure relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted without delay to the Protecting Power as well as to the Central Agency referred to in Article CXL.

ARTICLE CXXX

The detaining authorities shall ensure that internees who die while interned are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, properly maintained, and marked in such a way that they can always be recognized.

Deceased internees shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his expressed wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased. The ashes shall be retained for safe-keeping by the detaining authorities and shall be transferred as soon as possible to the next of kin on their request.

As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward lists of graves of deceased internees to the Powers on whom the deceased internees depended, through the Information Bureaux provided for in Article CXXXVI. Such lists shall include all particulars necessary for the identification of the deceased internees, as well as the exact location of their graves.

ARTICLE CXXXI

Every death or serious injury of an internee, caused or suspected to have been caused by a sentry, another internee or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. The evidence of any witness shall be taken, and a report including such evidence shall be prepared and forwarded to the said Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all necessary steps to ensure the prosecution of the person or persons responsible.

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CHAPTER XII—*Release, Repatriation and
Accommodation in Neutral Countries.*

ARTICLE CXXXII

Each interned person shall be released by the Detaining Power as soon as the reasons which necessitated his internment no longer exist.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for long time.

ARTICLE CXXXIII

Internment shall cease as soon as possible after the close of hostilities.

Internees in the territory of a Party to the conflict against whom penal proceedings are pending for offences not exclusively subject to disciplinary penalties, may be detained until the close of such proceedings and, if circumstances require, until the completion of the penalty. The same shall apply to internees who have been previously sentenced to a punishment depriving them of liberty.

By agreement between the Detaining Power and the Powers concerned, committees may be set up after the close of hostilities, or of the occupation of territories, to search for dispersed internees.

ARTICLE CXXXIV

The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to ensure the return of all internees to their last place of residence, or to facilitate their repatriation.

ARTICLE CXXXV

The Detaining Power shall bear the expense of returning released internees to the places where they were residing when interned, or, if it took them into custody while they were in transit or on the high seas, the cost of completing their journey or of their return to their point of departure.

Where a Detaining Power refuses permission to reside in its territory to a released internee who previously had his permanent domicile therein, such Detaining Power shall pay the cost of the said internee's repatriation. If, however, the internee elects to return to his country on his own responsibility or

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in obedience to the Government of the Power to which he owes allegiance, the Detaining Power need not pay the expenses of his journey beyond the point of his departure from its territory. The Detaining Power need not pay the costs of repatriation of an internee who was interned at his own request.

If internees are transferred in accordance with Article XLV, the transferring and receiving Powers shall agree on the portion of the above costs to be borne by each.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

SECTION V. INFORMATION BUREAU CENTRAL AGENCY

ARTICLE CXXXVI

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall establish an official Information Bureau responsible for receiving and transmitting information in respect of the protected persons who are in its power.

Each of the Parties to the conflict shall, within the shortest possible period, give its Bureau information of any measure taken by it concerning any protected persons who are kept in custody for more than two weeks, who are subjected to assigned residence or who are interned. It shall, furthermore, require its various departments concerned with such matters to provide the aforesaid Bureau promptly with information concerning all changes pertaining to these protected persons, as, for example, transfers, releases, repatriations, escapes, admittances to hospitals, births and deaths.

ARTICLE CXXXVII

Each national Bureau shall immediately forward information concerning protected persons by the most rapid means to the Powers of whom the aforesaid persons are nationals, or to Powers in whose territory they resided, through the intermediary of the Protecting Powers and likewise through the Central Agency provided for in Article CXL. The Bureau shall also reply to all enquiries which may be received regarding protected persons.

Information Bureau shall transmit information concerning a protected person unless its transmission might be detrimental to the person concerned or to his or her relatives. Even in such a case, the information may not be withheld from the Central Agency which, upon being notified of the circumstances, will take the necessary precautions indicated in Article CXL.

All communications in writing made by any Bureau shall be authenticated by a signature or a seal.

ARTICLE CXXXVIII

The information received by the national Bureau and transmitted by it shall be of such a character as to make it possible to identify the protected

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person exactly and to advise his next of kin quickly. The information in respect of each person shall include at least his surname, first names, place and date of birth, nationality, last residence and distinguishing characteristics, the first name of the father and the maiden name of the mother, the date, place and nature of the action taken with regard to the individual, the address at which correspondence may be sent to him and the name and address of the person to be informed.

Likewise, information regarding the state of health of internees who are seriously ill or seriously wounded shall be supplied regularly and if possible every week.

ARTICLE CXXXIX

Each national Information Bureau shall, furthermore, be responsible for collecting all personal valuables left by protected persons mentioned in Article CXXXVI, in particular those who have been repatriated or released, or who have escaped or died; it shall forward the said valuables to those concerned, either direct, or, if necessary, through the Central Agency. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full identity particulars of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Detailed records shall be maintained of the receipt and despatch of all such valuables.

ARTICLE CXL

A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article CXXIII of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

The function of the Agency shall be to collect all information of the type set forth in Article CXXXVI which it may obtain through official or private channels and to transmit it as rapidly as possible to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief societies described in Article CXLII.

PROSECUTION EXHIBIT 3

PAGE 47 OF 51

LAW OF WAR

ARTICLE CXLI

The national Information Bureaux and the Central Information Agency shall enjoy free postage for all mail, likewise the exemptions provided for in Article CX, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

PART IV. EXECUTION OF THE CONVENTION

SECTION I. GENERAL PROVISIONS

ARTICLE CXLII

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organizations assisting the protected persons, shall receive from these Powers, for themselves or their duly accredited agents, all facilities for visiting the protected persons, for distributing relief supplies and material from any source, intended for educational, recreational or religious purposes, or for assisting them in organizing their leisure time within the places of internment. Such societies or organizations may be constituted in the territory of the Detaining Power, or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the supply of effective and adequate relief to all protected persons.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

ARTICLE CXLIII

Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work.

They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure. Their duration and frequency shall not be restricted.

Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power and when occasion arises the Power of origin of the persons to be

visited, may agree that compatriots of the internees shall be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted to the approval of the Power governing the territories where they will carry out their duties.

ARTICLE CXLIV

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions.

ARTICLE CXLV

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

ARTICLE CXLVI

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article CV and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

PROSECUTION EXHIBIT 3

PAGE 49 OF 51

ARTICLE CXLVII

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

ARTICLE CXLVIII

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

ARTICLE CXLIX

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION II. FINAL PROVISIONS

ARTICLE CL

The present Convention is established in English and in French. Both texts are equally authentic.

The Swiss Federal Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

ARTICLE CLI

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949.

ARTICLE CLII

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

ARTICLE CLIII

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

ARTICLE CLIV

In the relations between the Powers who are bound by The Hague Conventions respecting the Laws and Customs of War on Land, whether that of July 29, 1899, or that of October 18, 1907, and who are parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the above-mentioned Conventions of The Hague.

ARTICLE CLV

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

ARTICLE CLVI

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

In Witness Whereof the undersigned, having deposited their respective full powers, have signed the present Convention.

Done at Geneva this twelfth day of August, 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.¹

[Here follow same signatures as Geneva, I, pp. 544-46.]

¹The United States Senate consented to ratification with reservations on July 6, 1955.



Department of Defense DIRECTIVE

NUMBER 5100.77

December 9, 1998

GC, DoD

SUBJECT: DoD Law of War Program

- References: (a) DoD Directive 5100.77, "DoD Law of War Program," July 10, 1979 (hereby canceled)
- (b) DoD Directive 2310.1, "DoD Program for Enemy Prisoners of War (EPOW) and other Detainees (Short Title: DoD Enemy POW Detainee Program)," August 18, 1994
- (c) DoD Directive 5000.1, "Defense Acquisition," March 15, 1996
- (d) Hague Convention No. IV, "Respecting the Laws and Customs of War on Land," October 18, 1907
- (e) through (l), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a) to update policy and responsibilities in the Department of Defense for a program to ensure DoD compliance with the law of war obligations of the United States.

1.2. Expands the responsibilities of the Secretary of the Army as the DoD Executive Agent for the investigation and reporting of reportable incidents.

1.3. Establishes the DoD Law of War Working Group.

2. APPLICABILITY AND SCOPE

2.1. This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the

Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

2.2. In implementation of this Directive, reference (b) addresses the DoD program for care and treatment of enemy prisoners of war (EPW), retained persons, and detainees. A reportable incident (as defined in subsection 3.2., below) involving possible, suspected, or alleged violations of the protections afforded EPWs, retained persons, or detainees is included in the scope of this Directive.

2.3. In further implementation of this Directive, that part of the law of war relating to legal reviews of the development, acquisition, and procurement of weapons and weapon systems for the DoD Components is addressed in DoD Directive 5000.1 (reference (c)) and in related guidance pertaining to Special Access Programs.

3. DEFINITIONS

3.1. Law of War. That part of international law that regulates the conduct of armed hostilities. It is often called the law of armed conflict. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

3.2. Reportable Incident. A possible, suspected, or alleged violation of the law of war.

4. POLICY

It is DoD policy to ensure that:

4.1. The law of war obligations of the United States are observed and enforced by the DoD Components.

4.2. An effective program to prevent violations of the law of war is implemented by the DoD Components.

4.3. All reportable incidents committed by or against U.S. or enemy persons are promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action.

4.4. All reportable incidents committed by or against allied persons, or by or

against other persons during a conflict to which the U.S. is not a party, are reported through command channels for ultimate transmission to appropriate U.S. Agencies, allied governments, or other appropriate authorities. Once it has been determined that U.S. persons are not involved in a reportable incident, an additional U.S. investigation shall be continued only at the direction of the appropriate Combatant Commander. On-scene commanders shall ensure that measures are taken to preserve evidence of reportable incidents pending turnover to U.S., allied, or other appropriate authorities.

5. RESPONSIBILITIES

5.1. The General Counsel of the Department of Defense shall:

5.1.1. Provide overall legal guidance in the Department of Defense on the Law of War Program, to include review of policies developed under or relating to the program, coordination of special legislative proposals and other legal matters with other Federal Departments and Agencies, and resolution of disagreements on questions of law.

5.1.2. Establish a DoD Law of War Working Group consisting of representatives from the General Counsel of the Department of Defense (GC, DoD), the Legal Counsel to the Chairman of the Joint Chiefs of Staff, the International and Operational Law Division of the Office of the Judge Advocate General of each Military Department, and the Operational Law Branch of the Office of the Staff Judge Advocate to the Commandant of the Marine Corps. The DoD Law of War Working Group shall develop and coordinate law of war initiatives and issues, manage other law of war matters as they arise, and provide advice to the General Counsel on legal matters covered by this Directive.

5.1.3. Coordinate and monitor the Military Departments' plans and policies for training and education in the law of war.

5.2. The Under Secretary of Defense for Policy shall:

5.2.1. Exercise primary staff responsibility for the DoD Law of War Program.

5.2.2. Ensure that the Assistant Secretary of Defense (International Security Affairs) shall provide overall development, coordination, approval, and promulgation of major DoD policies and plans, including final coordination of such proposed policies and plans with DoD Components and other Federal Departments and Agencies as necessary, and final coordination of DoD positions on international negotiations on

the law of war and U.S. signature or ratification of law of war treaties.

5.3. The Heads of the DoD Components shall:

5.3.1. Ensure that the members of their Components comply with the law of war during all armed conflicts, however such conflicts are characterized, and with the principles and spirit of the law of war during all other operations.

5.3.2. Institute and implement effective programs to prevent violations of the law of war, including law of war training and dissemination, as required by references (d) through (h).

5.3.3. Ensure that qualified legal advisers are immediately available at all levels of command to provide advice about law of war compliance during planning and execution of exercises and operations; and institute and implement programs to comply with the reporting requirements established in section 6., below.

5.4. The Assistant Secretary of Defense for Public Affairs shall monitor the public affairs aspects of the DoD Law of War Program and provide public affairs guidance, as appropriate, to the DoD Components.

5.5. The Secretaries of the Military Departments shall develop internal policies and procedures consistent with this Directive in support of the DoD Law of War Program to:

5.5.1. Provide directives, publications, instructions, and training so that the principles and rules of the law of war will be known to members of their respective Departments, the extent of such knowledge to be commensurate with each individual's duties and responsibilities.

5.5.2. Ensure that programs are implemented in their respective Military Departments to prevent violations of the law of war, emphasizing any types of violations that have been reported under this Directive.

5.5.3. Provide for the prompt reporting and investigation of reportable incidents committed by or against members of their respective Military Departments, or persons accompanying them, in accordance with directives issued under paragraph 5.8.4., below.

5.5.4. Where appropriate, provide for disposition, under the Uniform Code of Military Justice (reference (i)), of cases involving alleged violations of the law of war

by members of their respective Military Departments who are subject to court-martial jurisdiction.

5.5.5. Provide for the central collection of reports and investigations of reportable incidents alleged to have been committed by or against members of their respective Military Departments, or persons accompanying them.

5.5.6. Ensure that all reports of reportable incidents are forwarded to the Secretary of the Army in his or her capacity as the DoD Executive Agent under subsection 5.6., below.

5.6. The Secretary of the Army, as the Executive Agent for the Secretary of Defense for reportable incidents, shall act for the Secretary of Defense in developing and coordinating plans and policies for, and in supervising the execution of, the investigation of reportable incidents and, subject to DoD 8910.1-M (reference (j)), the collection, recording, and reporting of information concerning reportable incidents. This authority is separate from and subject to the responsibilities assigned the Combatant Commanders in subsections 4.4., above, and 5.8., below, and the responsibilities assigned the Secretaries of the Military Departments in subsection 5.5., above.

5.7. The Chairman of the Joint Chiefs of Staff shall:

5.7.1. Provide appropriate guidance to the Commanders of the Combatant Commands, consistent with 10 U.S.C. 163 (a)(2) (reference (k)), conforming with the policies and procedures in this Directive. This guidance will include direction on the collection and investigation of reports of enemy violations of the law of war.

5.7.2. Designate a primary point of contact in his organization to administer activities under this Directive.

5.7.3. Issue and review appropriate plans, policies, directives, and rules of engagement, as necessary, ensuring their consistency with the law of war obligations of the United States.

5.7.4. Ensure that plans, policies, directives, and rules of engagement issued by the Commanders of the Combatant Commands are consistent with this Directive and the law of war.

5.8. The Commanders of the Combatant Commands shall:

5.8.1. Institute effective programs within their respective commands to prevent violations of the law of war and ensure that their commands' plans, policies, directives, and rules of engagement are subject to periodic review and evaluation, particularly in light of any violations reported.

5.8.2. Implement guidance from the Chairman of the Joint Chiefs of Staff for the collection and investigation of reports of enemy violations of the law of war.

5.8.3. Designate the command legal adviser to supervise the administration of those aspects of this program dealing with possible, suspected, or alleged enemy violations of the law of war.

5.8.4. Issue directives to ensure that reportable incidents involving U.S. or enemy persons are reported promptly to appropriate authorities, are thoroughly investigated, and the results of such investigations are promptly forwarded to the applicable Military Department or other appropriate authorities.

5.8.5. Determine the extent and manner in which a reportable incident not involving U.S. or enemy persons will be investigated by U.S. forces and ensure that such incidents are reported promptly to appropriate U.S. Agencies, allied governments, or other appropriate authorities.

5.8.6. Ensure all plans, policies, directives, and rules of engagement issued by the command and its subordinate commands and components are reviewed by legal advisers to ensure their consistency with this Directive and the law of war.

5.8.7. Ensure that law of war training and dissemination programs of subordinate commands and components are consistent with this Directive and the law of war obligations of the United States.

5.9. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence shall ensure that the Director, Defense Intelligence Agency, shall provide information from the intelligence community to the Secretary of the Army and to the Commanders of the Combatant Commands, consistent with their respective obligations under subsections 5.6. and 5.8., above, concerning reportable incidents perpetrated against captured or detained U.S. persons, or committed by or against U.S. allies, or committed by or against other persons during a conflict to which the United States is not a party.

6. INFORMATION REQUIREMENTS

6.1. Reports of Incidents. All military and civilian personnel assigned to or accompanying a DoD Component shall report reportable incidents through their chain of command. Such reports also may also be made through other channels, such as the military police, a judge advocate, or an Inspector General. Reports that are made to officials other than those specified in this subsection shall, nonetheless, be accepted and immediately forwarded through the recipient's chain of command.

6.2. Initial Report. The commander of any unit that obtains information about a reportable incident shall immediately report the incident through command channels to higher authority. The initial report shall be made through the most expeditious means available.

6.3. Higher authorities receiving an initial report shall:

6.3.1. Request a formal investigation by the cognizant military investigation authority.

6.3.2. Submit a report of any reportable incident, by the most expeditious means available, through command channels, to the responsible Combatant Commander. Normally, an OPREP-3 report, established in Joint Pub 1-03.6, Joint Reporting System, Event/Incident Reports (E/IR), will be required. Copies of the E/IR shall be provided to the DoD Component officials designated by the Heads of the DoD Components concerned.

6.3.3. Submit a report, in accordance with DoD Instruction 5240.4 (reference (1)), concerning any criminal case, regardless of the allegation, that has received, is expected to receive, or which, if disclosed, could reasonably be expected to receive, significant media interest.

6.4. The Combatant Commander shall report, by the most expeditious means available, all reportable incidents to the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the Secretary of the Army in his role as the Executive Agent under subsection 5.6., above.

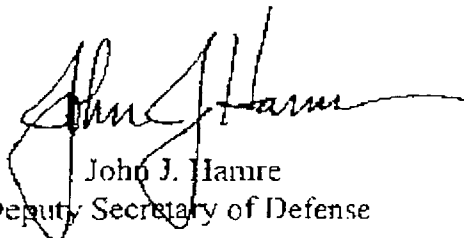
6.5. DoD Notifications. Notifications of a reportable incident shall be forwarded to the Chairman of the Joint Chiefs of Staff; the GC, DoD; the Assistant Secretary of Defense for Public Affairs; and the Inspector General of the Department

of Defense, who will inform their counterparts in any Military Service or Department concerned.

6.6. Information Requirements. The Event/Incident Reports referred to in this Directive and further described in reference (l) are exempt from licensing in accordance with paragraph 5.4.2. of DoD 8910.1-M (reference (j)).

7. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the General Counsel of the Department of Defense and the Under Secretary of Defense for Policy within 120 days.



John J. Hamre
Deputy Secretary of Defense

Enclosures - 1

E1. References, continued

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949
- (f) Geneva Convention for Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, August 12, 1949
- (g) Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949
- (h) Geneva Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949
- (i) Sections 801-940 of title 10, United States Code, "Uniform Code of Military Justice"
- (j) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," June 1998, authorized by DoD Directive 8910.1, June 11, 1993
- (k) Section 163(a)(2) of title 10, United States Code
- (l) DoD Instruction 5240.4, "Reporting of Counterintelligence and Criminal Violations," September 22, 1992

Prosecution Exhibits

5 and 6

not offered / admitted

Prosecution Exhibits

8 through 10

not offered / admitted

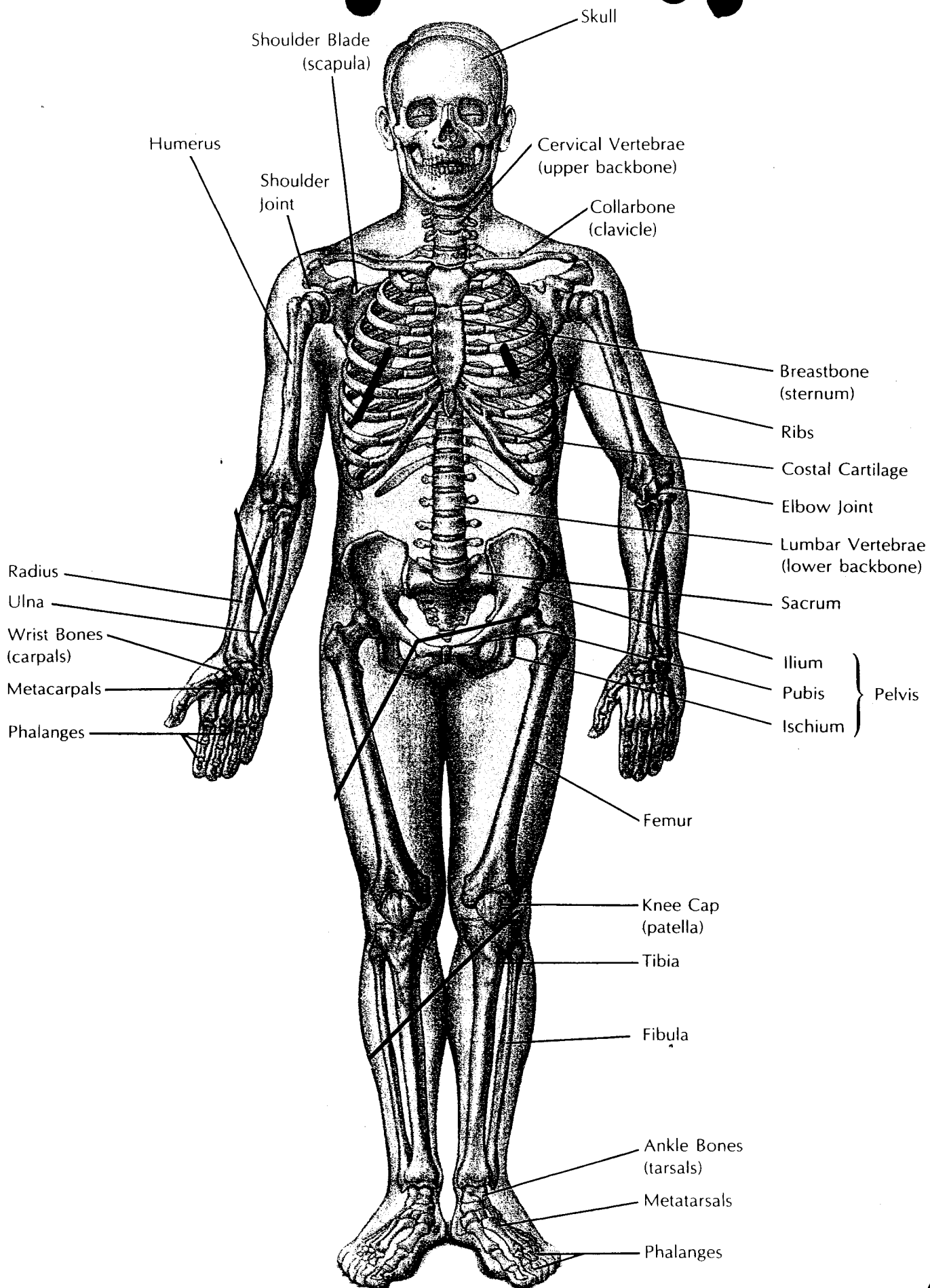
Prosecution Exhibit 16
not offered / admitted

Prosecution Exhibit 18
not offered/admitted

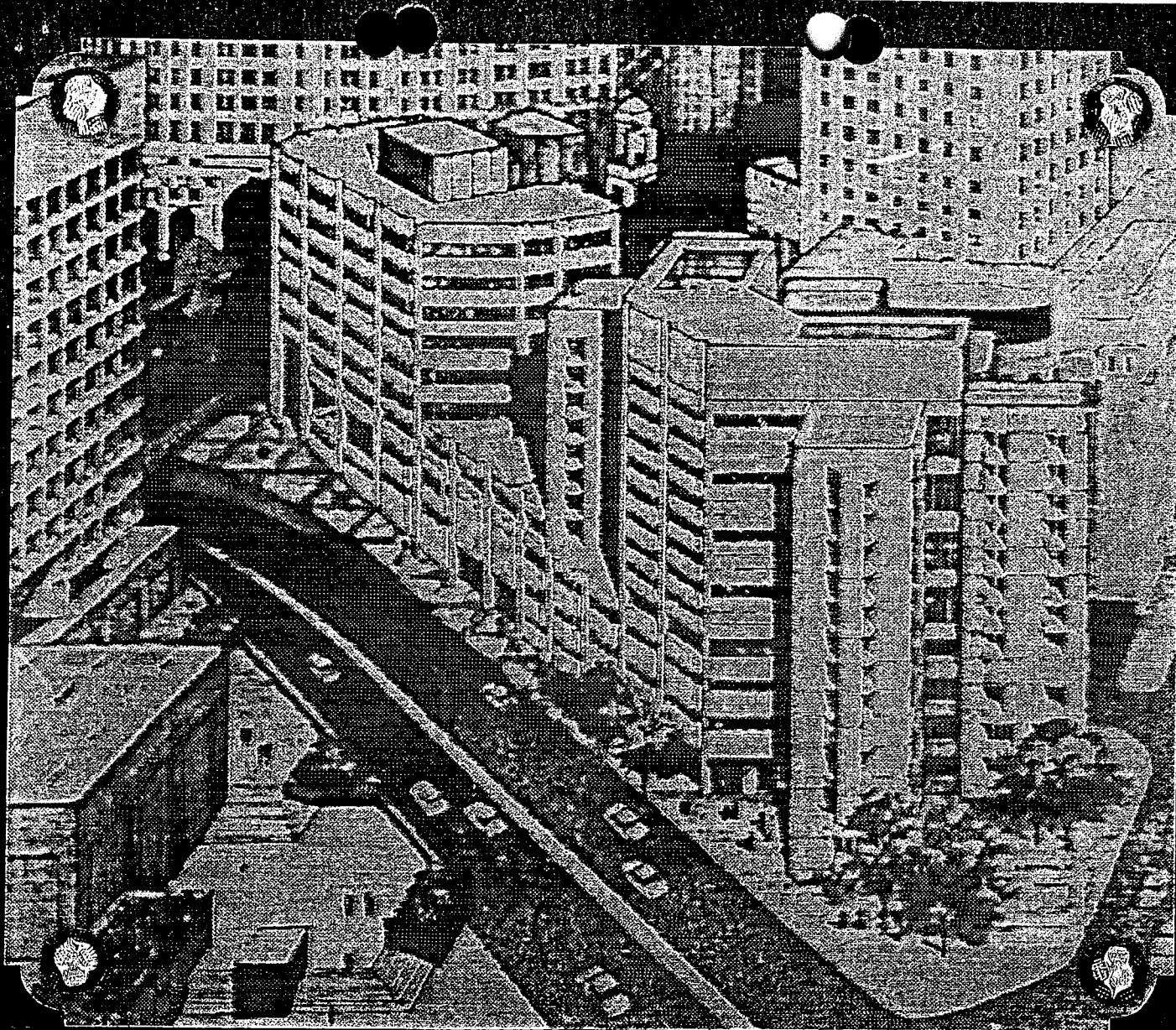
Prosecution Exhibit 23
not offered / admitted

Prosecution Exhibit 25
not offered / admitted

Prosecution Exhibits
40 through 42
not offered/admitted



Defense Exhibit B
not offered / admitted



G. PITTMAN

IN RECOGNITION OF YOUR CONTRIBUTION TO

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JANUARY 5 1996
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DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, D.C. 20380-0001

IN REPLY REFER TO:
1650
MHM-3

14 JUN 1994

Mr. Gary Pittman
HHC USAG
Ft. Hood, TX 76544

Dear Mr. Pittman:

This further responds to your letter of October 24, 1993,
concerning awards for your service in the U.S. Marine Corps.

You are entitled to the following awards:

Combat Action Ribbon for service in Southwest Asia

Navy Unit Commendation with one bronze star awarded to:

Marine Forces Panama for the period April 1, 1988, to
June 13, 1990

I Marine Expeditionary Force for service in Southwest
Asia for the period August 14, 1990, to April 16, 1991

Good Conduct Medal for service from December 29, 1986, to
December 28, 1989

Marine Corps Expeditionary Medal with one bronze star for
service in Panama and Liberia

National Defense Service Medal

Southwest Asia Service Medal with two bronze stars

Humanitarian Service Medal for participation in Operation
Sharp Edge in Monrovia, Liberia

Sea Service Deployment Ribbon with three bronze stars

Kuwait Liberation Medal

Rifle Marksman Badge

Certificate of Appreciation

As requested, enclosures (1) through (9) are forwarded. In order
to identify the awards provided, enclosure (10) is forwarded.

The marksmanship qualification badge is not issued by this
Headquarters, but may be purchased at most local military shops,
exchanges (if eligible), or the following firms:

7 14 M

59 SAVED

Yanks airlifted to U.S. warship

Marines sent into Liberia

By MAUREEN SANTINI

News Washington Bureau

WASHINGTON — In a helicopter rescue mission code-named "Sharp Edge," U.S. Marines yesterday evacuated 59 Americans from an increasingly bloody civil war in Liberia.

No firing was reported, but the Marines were authorized to use "whatever means necessary" to protect Americans, said White House press secretary Marlin Fitzwater.

President Bush ordered the military operation on Sat-

urday, after one of the Liberian rebel leaders, Prince Johnson, said he planned to start rounding up Americans today.

Bush issued the directive from Camp David, Md., where he conferred with national security advisers on another world crisis, Iraq's occupation of Kuwait.

Some 255 Marines using 17 helicopters and escort jets launched the Liberian operation from U.S. warships that have been anchored since June in international waters off the Liberian coast.

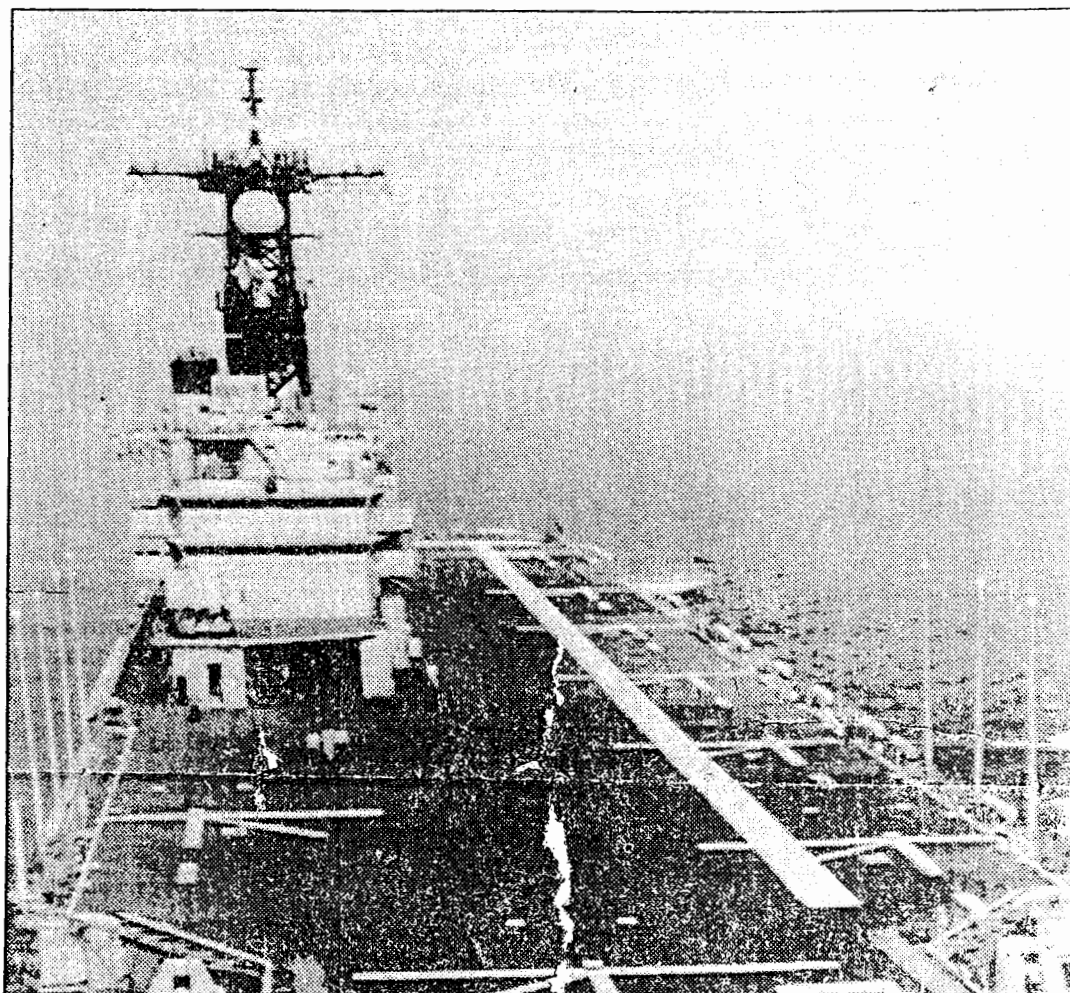
"The initial operation went well and we are unaware of any shots being fired or resistance encountered," Fitzwater said.

Fitzwater said the mission was not meant to be thought of as military intervention in the Liberian fighting.

"The purpose of the opera-



TRINE GIAEVER DAILY NEWS



They nearly drew fire

ABIDJAN, Ivory Coast — Liberian rebels said they nearly fired on U.S. military rescue aircraft yesterday because the rebels had not been informed of the mission.

said White House press secretary Marlin Fitzwater.

President Bush ordered the military operation on Sat-

They nearly drew fire

ABIDJAN, Ivory Coast — Liberian rebels said they nearly fired on U.S. military rescue aircraft yesterday because the rebels had not been informed of the mission.

Tom Woewiyu, a rebel official, said the United States in the past has kept them informed of its moves but this time said nothing.

Liberian rebels were just receiving orders to fire on the incoming U.S. helicopters when they found out about the operation, Woewiyu said.

Once it was established the U.S. aircraft were in Monrovia for an evacuation and permission was given, "they landed and they have been doing the evacuation ... and there has been no incident," Woewiyu said.

The Associated Press

Some 255 Marines using 17 helicopters and escort jets launched the Liberian operation from U.S. warships that have been anchored since June in international waters off the Liberian coast.

"The initial operation went well and we are unaware of any shots being fired or resistance encountered," Fitzwater said.

Fitzwater said the mission was not meant to be thought of as military intervention in the Liberian fighting.

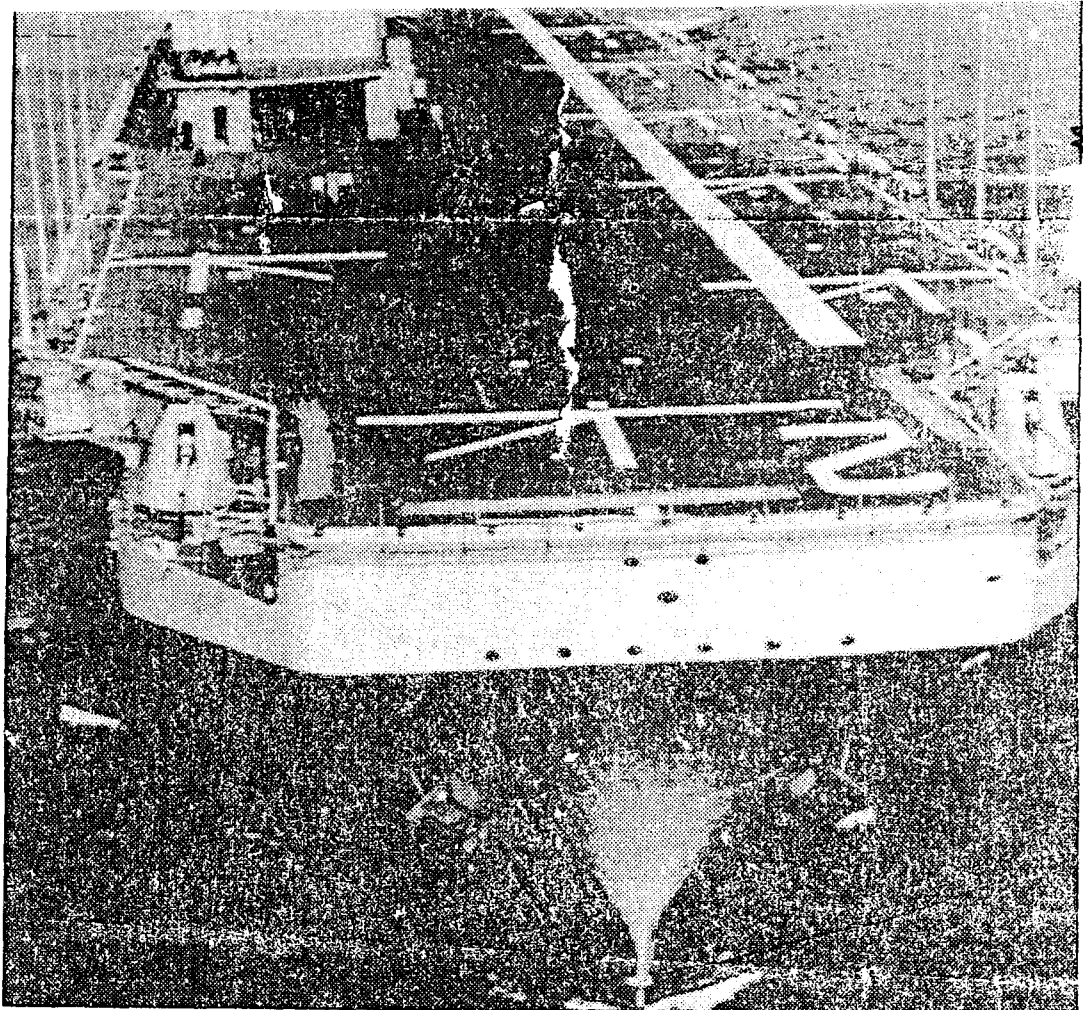
"The purpose of the operation is to safeguard lives, to draw down the number of Americans at the Embassy to minimum staff and to provide additional security for those who remain," he said.

About 310 Americans chose not to leave the country, including a skeleton crew that remained at the Embassy.

But the Marines, who will stay on to beef up embassy security, will evacuate more Americans if they decide to leave, as well as any foreigners who ask, officials said.

But many of the remaining Americans also hold Liberian citizenship and are expected to stay.

Those who left yesterday were lifted to the Saipan, a helicopter assault ship.



RESCUE SHIP: Americans were airlifted from Liberia to the helicopter assault ship Saipan yesterday.

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WEATHER

Variable cloudiness with some showers. High 76-80. Low 66-70.

Complete weather, page 56

WHAT'S INSIDE

A NICE DICE?

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LOTTERY

New York

Daily: 352 Win-4: 5224
PICK 10: 3, 7, 8, 9, 10, 11, 23, 32, 36, 37, 39, 43, 46, 49, 52, 57, 70, 73, 75, 79

New Jersey

Pick it: 041 Pays: \$303.50
Pick-4: 6627 Pays: \$3,208

Connecticut

Daily: 998 Play-4: 3372

Saturday New York

Daily: 349 Win-4: 9068
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IRA's reputation for random and clumsy violence has even taken its toll on Sinn Fein, the Irish political party that is openly sympathetic to the IRA's goals. There is speculation that Sinn Fein, which won only 11 percent of the vote in Northern Ireland last year, may distance itself from the IRA and moderate its stance in order to attract voters. Earlier this year, the party gave cautious approval to British government projects aimed at boosting Northern Ireland's economy.

Support for the underground wing has been jeopardized by a series of botched attacks. Earlier this summer, IRA gunmen in the Netherlands murdered two Australian tourists whom they mistook for off-duty British soldiers. Last year the IRA "accidentally" killed the infant daughter of a British soldier stationed in Germany and the wife of another. In Northern Ireland last month, an IRA bomb intended for three policemen also claimed the life of a young nun. The IRA also attacked the country home of a former Conservative Party treasurer who had already moved out.

By going after Gow, a vehement critic of the IRA whose target value was enhanced by his political and personal ties to Thatcher, the IRA was trying, in part, to reverse these blunders. "The feeling that they can reach out and hit the high and mighty is a powerful motivating factor," says author and IRA specialist Patrick Bishop.

'Intelligence gap': As IRA-inspired violence spreads outside Northern Ireland, many Britons are vexed at the apparent inability of the authorities to track down the terrorists. "There is a yawning intelligence gap on the mainland," says Wilkinson, as well as a lack of coordination among antiterrorist agencies. The current campaign is believed to be the work of two "active service units" well armed with weapons, ammunition and the plastics explosive Semtex, which is funneled through Libya. The terrorists are aided in Britain by "sleepers," who lead apparently normal lives until they are mobilized by their IRA contacts, and "fixers," who gather documents and arrange attack logistics.

For now, British politicians and other potential targets must rely on "do-it-yourself" security. Only cabinet-level ministers and top civil servants generally qualify for 24-hour police protection. Last week members of Parliament asked for special mirrors so that they can check under their cars for bombs. And Prime Minister Thatcher, who was almost the victim of an IRA bomb that exploded at a Brighton hotel in 1984, issued a plea to British lawmakers to watch out for their own safety. While the IRA may occasionally miss its target, no one doubts its ability to kill.

KAREN BRESLAU with JENNIFER FOOTE
in London

The Marines to the Rescue

Evacuating Americans from war-torn Liberia

The move came early Sunday. Less than a day after Liberian rebel leader Prince Johnson had warned that all foreigners in the country would be "arrested," a task force of 225 Marines from the USS Saipan just off the coast headed toward Monrovia. Sea Knight helicopters landed at the U.S. Embassy compound in the capital and at two nearby communication sites. Their mission: to evacuate U.S. personnel and the estimated 300 American civilians caught in the nation's bloody, seven-month civil war. "The Marines are there to protect lives," said White House spokesman Marlin Fitzwater, not "to intervene militarily in the Liberian conflict."

The Marines met no resistance as they moved into the capital. Four ships with Marines had been standing offshore for more than a month. President Bush made the decision to send in the troops after Johnson issued his warning and sporadic gunfire opened up around the embassy compound. Although U.S. officials said the rescue mission was primarily aimed at protecting Americans, the Marines were also prepared to help other foreign nationals, perhaps including Soviet officials, flee the country.

Liberia has been in a state of near anarchy for months—ever since rebel leader Charles Taylor crossed into Liberia on Christmas Eve from the Ivory Coast. The incursion triggered an outburst of ethnic violence. Taylor picked up supporters in remote Nimba county, home to both the Gio and Mano tribes. Soldiers from President Samuel K. Doe's Krahn tribe took swift revenge on the Gios and Manos, raping, murdering and looting their way through Nimba. Taylor's drive faltered on the outskirts of Monrovia. Later, Johnson broke away from Taylor and mounted his own insurgency.

The most brutal incident in Liberia's civil war occurred last week at St. Peter's Lutheran Church, not far from Doe's Monrovia base. Refugees seeking sanctuary at the church had pleaded with foreign diplomats for assistance but received only a few Red Cross flags to hang on a fence. That mute appeal to decency was lost on the government soldiers who burst in and slaughtered about 600 of the 2,000 people there, including women and babies. Corpses hung from the windows; other bodies were discovered huddled under church pews. Said one witness: "This is genocide."

The U.S. move holds little promise of



JEAN MARIE DE CRAENE—REUTERS

An invitation to intervene: Rebel Johnson

stopping the bloodshed. In Liberia, as in much of Africa, tribal bonds are again more important than nationalism. Indeed, tribalism is at the core of a continentwide debate over democratic rule. Advocates of reform say that political pluralism is the only way to defuse ethnic conflict. But others argue that party politics inevitably breaks down along ethnic lines. Tribalism, says Kenyan Foreign Minister Wilson Ndolo Ayah, "is not bad, it is not good, it is just a fact."

Implied hostage threat: For two months now the United States has been offering to help Doe escape. But at the weekend he remained holed up in his seafront mansion as his troops fought street battles with Johnson's men in the ravaged city center. Johnson said he hoped his implied hostage threat would provoke foreign intervention. And Nigeria was reportedly poised to comply—not on his behalf but to end the fighting and impose a cease-fire. Given the fierce tribal rivalries, even that was a long shot. With the help of the Marines, the Americans were safe. But Liberia's turmoil was far from over.

JEFFREY BARTHOLET in Nairobi

Kuwait. The company is a marine reserve unit from Fort Belvoir, Mo.

See BOOMER /Page 3

Charlie's 144 Marines deceived Saddam's Iraqi Corps

Bamboozling '4th Largest Army in the World'

BY SGT. ROBERT C. JENKS
I MARINE EXPEDITIONARY FORCE

KUWAIT—For 42 hours, 144 Marines relentlessly attacked Iraqi positions deep in Kuwait. Every five to eight seconds for three days, they were bombarded by enemy artillery and rocket fire in a scene that could only be described by Dante in his "Inferno."

This began Feb. 21, three days before the ground offensive started. Perhaps their success, according to the Marines of Charlie Co., 2nd Light Armored Infantry Bn., was singularly responsible for the rest of I MEF to slice through Kuwait in its incredible thrust against the "4th Largest Army in the World."

While the world waited, anticipating and guessing when the ground attack would begin, the Marines aboard light armored vehicles named "Croaker, Known Distance, Armordillo, Banger and Fat Chick," and others, drew the attention



Sgt. Robert C. Jenks

Charlie Co., 2nd LAI Bn., on guard near the Kuwait International Airport.

away from the breaching points eventually used by two Marine divisions. They drew so much attention in fact, that

Baghdad radio, and Saddam himself, was reporting that a Marine division was attacking near the elbow of Kuwait, and that

the main effort of the coalition forces' attack had begun.

The Iraqi military staff could not have been more wrong.

The slugfest began at 10:35 a.m.; the LAI Marines blasted through the breach and into Kuwait. Their mission: locate gaps; draw enemy arty; conduct counter-reconnaissance; determine enemy reaction; and, most importantly, deceive the enemy by making them think the ground war had begun.

Rifling into the heart of two Iraqi brigades, the LAVs shot toward a ridge near high-tension power lines six kilometers into "Indian" country. By the time they reached the power lines, their ordeal had begun.

"We immediately began drawing fire from arty and 122mm rockets when we reached the ridge," said Capt. Kenneth W.

See CHARLIE/Page 4-5

Charlie

from Page 1

Amidon, company commander. "We were hoping for support from the air and artillery, but that wouldn't come until later."

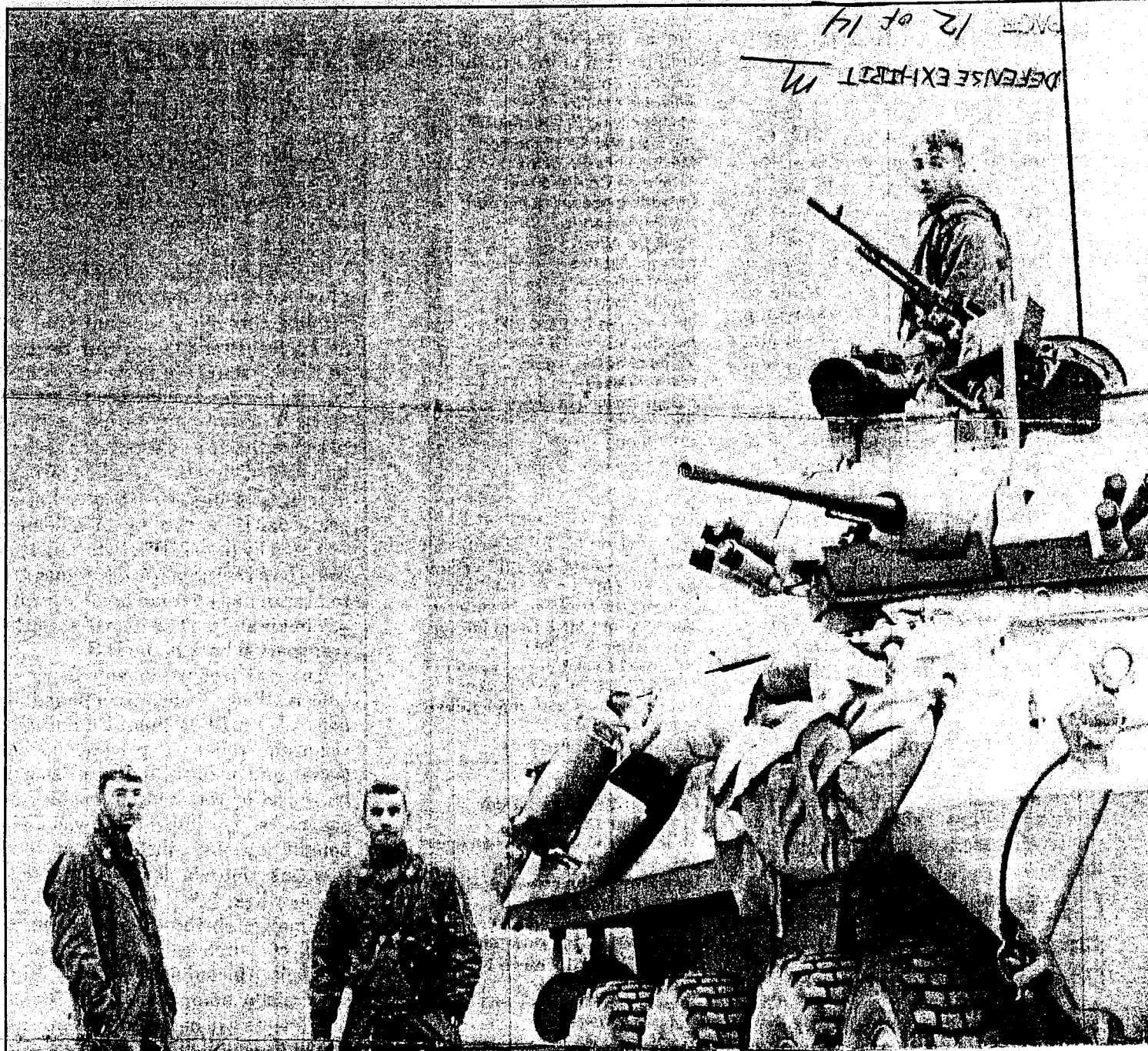
The more Charlie pushed into Kuwait, the more intense the fire became. The company was receiving every imaginable fire the enemy had. Then they started to receive small arms fire. Two Sagger anti-tank missile whistled from a bunker two kilometers away while artillery shells rained onto their positions. The three platoons kept moving.

"We had to move every five or six minutes. If we waited too long in one position, their arty would remind us they were going to be on target immediately," said SSgt. David D. Meyer, 33, a fire support coordinator from East St. Louis, Ill. "The counterattack got so intense we decided to head back into Saudi Arabia and re-coordinate air and arty support. Two hours later, we went back into Kuwait."

With fire support reading off the same sheet of music, Charlie was able to retake the ridge and talk the rounds being fired by the 5th Bn., 10th Marines, onto Iraqi T-62 tanks. The enemy armor was hulled down in the sand and its defense dotted the desert plain south of Kuwait City. Charlie Co. had to get rid of the Iraqi reconnaissance eyes and ears from their observation posts along the ridge in order to be effective. Quickly, they outflanked their forward observers and captured 73 soldiers just before they reached an extensive mine field three fields deep.

"It was very nice of the Iraqis to mark their mine field as well as they did, because we might have lost most of the company if they weren't marked," Amidon said.

Still deep in Kuwait, Charlie began taking fire again. This time they were close enough to an Iraqi brigade to receive



...a direct hit.

"All of a sudden there was a massive explosion," Meyers said. "A mortar had hit square on the Hummer. We thought our Stinger Marines had bought it. But they just walked away! It was amazing."

Following this, Amidon ordered 1st Platoon to provide a blocking force while "Fat Chick" and the rest of 2nd platoon refueled and rearmed under the cover of darkness.

Mortar and rocket fire came in again. 1st Platoon then got eyes-on-target with two trucks barreling down the road from the north. They moved in for the kill.

Lighting up the twilight with countless high-explosive bursts from their 25mm Bushmaster gun, the run-and-gun tactic worked. The trucks were carrying ammo and fuel. When the rounds hit the vehicles, it split the night with tremendous fireballs. "Fat Chick," now refueled, spotted another truck coming in from the west. It too sent rounds into the thin skin of the truck, that burst into flames and explosions as its cargo of ammunition went off.

The Iraqis were starting to mount a counterattack. Amidon called for air support when enemy tanks moved in from the northwest.

"We really needed some air," Amidon said. "It seemed like a lifetime before we heard an A-6 Intruder coming in on an attack run."

The Intruder tried to hit the tanks in the darkness, but instead blasted the extensive trench network protecting hundreds of enemy soldiers on the other side of the power lines.

"The enemy fire was still raining in on us so we were charging around in our LAVs like we were at the Indianapolis 500," said Cpl. Michael S. Phillips, from Dallas. "Then, two jets, I have no idea whose they were, came screaming in from the north. All of a sudden, 200 meters in front of 2nd Platoon, two 500 pound bombs



Capt. Kenneth W. Amidon (left), commanding officer, Charlie Co., 2nd LAI Bn., talks with a platoon commander in d

exploded. It was awesome. The enemy was that close."

At 3:10 a.m., the Iraqis opened up with anti-tank guns at Charlie; then the ground around them was being pounded by enemy arty. They bolted out of the zone and into open terrain beneath the ridge. Suddenly, two Frog missile came in on "Banger" and 3rd Platoon.

"When those missiles hit in 'Banger's' position, I thought they were all dead," Amidon said. "The explosions were huge and the ground shook. It was terrifying. Then, we heard 'Banger' and the rest of the 3rd come up on the radio saying they were okay."

By dawn the first night, Charlie had had the upper hand.

"The Marines were in real good spirits. They knew what they were doing and felt as though they were in control of the battlefield," Meyers said.

"Then the T-62s saw us," Amidon said. Iraqi armor started firing all around Charlie. With maneuver, the LAVs crossed the flat desert trying not to get hit, but their shells were getting too close.

MSGT. Richard Harrison, aboard "Croaker," moved in close backed by their Bushmaster gun. While the 25mm rounds merely irritated the heavy tanks as sparks flew like sparklers on the Fourth, "Croaker" was able to keep the tank crewmen buttoned up and occupied while the

TOW-variant LAVs moved in for kills.

The first TOW down range was a dud. The second went wild when the wire that guides the missile broke — the third ripped the tank in half. Meanwhile, 1st Platoon and 1st Platoon were busy flanking three more T-62s rumbling in.

"It was pure luck," Amidon said. "The tanks were moving in from the north trying to outflank us, but 1st Platoon came from the southwest and outflanked them — they were destroyed — they never saw 1st."

With still more enemy armor moving in to attack, Meyers called for more air support. The Charlie Marines lobbed 81mm mortars toward the enemy tanks to mark the targets for two British Sea Harriers that came blazing in from the east. With their load of napalm, the ridge and dell was instantly engulfed in a wall of fire.

"It was beautiful," said SSgt. Thomas A. Brown, Jacksonville, N.C.

By talking to the air support, Meyers kept the Harriers on the enemy tanks, destroying three more, but the enemy was advancing.

"It was a good thing night was coming," Amidon said. "We felt more comfortable because we knew they couldn't see us. We also had Thermal Night scopes that pick

up heat. With the scopes we could see 17 kilometers across the night."

Jokingly, the Charlie Marines said the night was better because their artillery barrage slowed down to one every minute or so.

With Alpha Co., 2nd LAI, moving to Charlie southeast to take a police outpost on the far edge of the ridge, the enemy started pounding the position with mortar and anti-tank fire. Mc 122mm rockets came blasting into the Marines. Because the rounds were relatively ineffective, Amidon said the Iraqis started using variable timed fuses on their shells. These air bursts rounds started to get the Charlie Marines nervous.

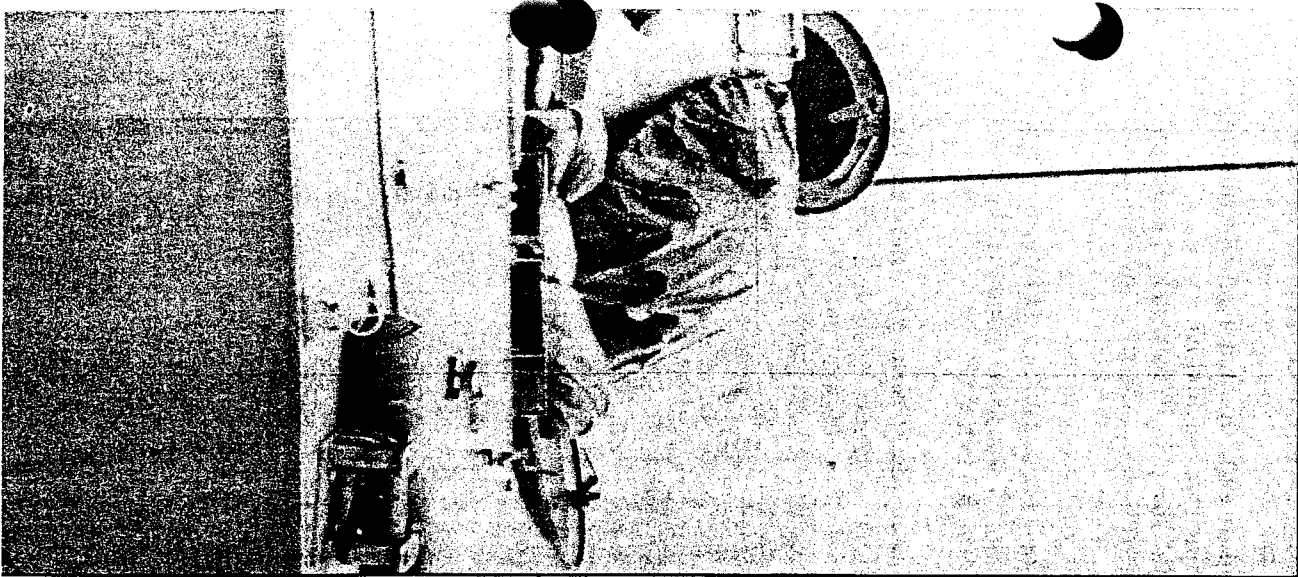
"We were right in the middle of a VT attack," Amidon said. "We all heard the rounds coming in, so we dove under our LAVs. Cpl. Steve Secgunner for 'Known Distance' couldn't get off the top of the LAV fast enough. When a VT went, it was right over his head. He caught shrapnel in the hand and head. We fixed him up and medevaced him right away."

"We found out later he was getting all comfort the Navy nurses could give him. Sure he didn't mind that," Amidon said grinning. Still moving in for kills against enemy attacks, the LAVs dodged two more Frogs that blasted "Banger" and 3rd Platoon. Again, Amidon said he thought they were gone, but they survived.

The shelling and the attacking slowed down long enough for "Known Distance and Croaker" to start spotting soldiers coming out of the

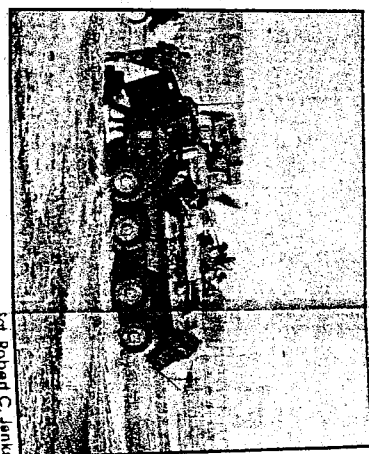
found in the 100-4 air pump gunner.

Iraqi soldiers.



When we were moving into our

14. 14. 14.



Sgt. Robert C. Jenks

At the airport



Sgt. Robert C. Jenks

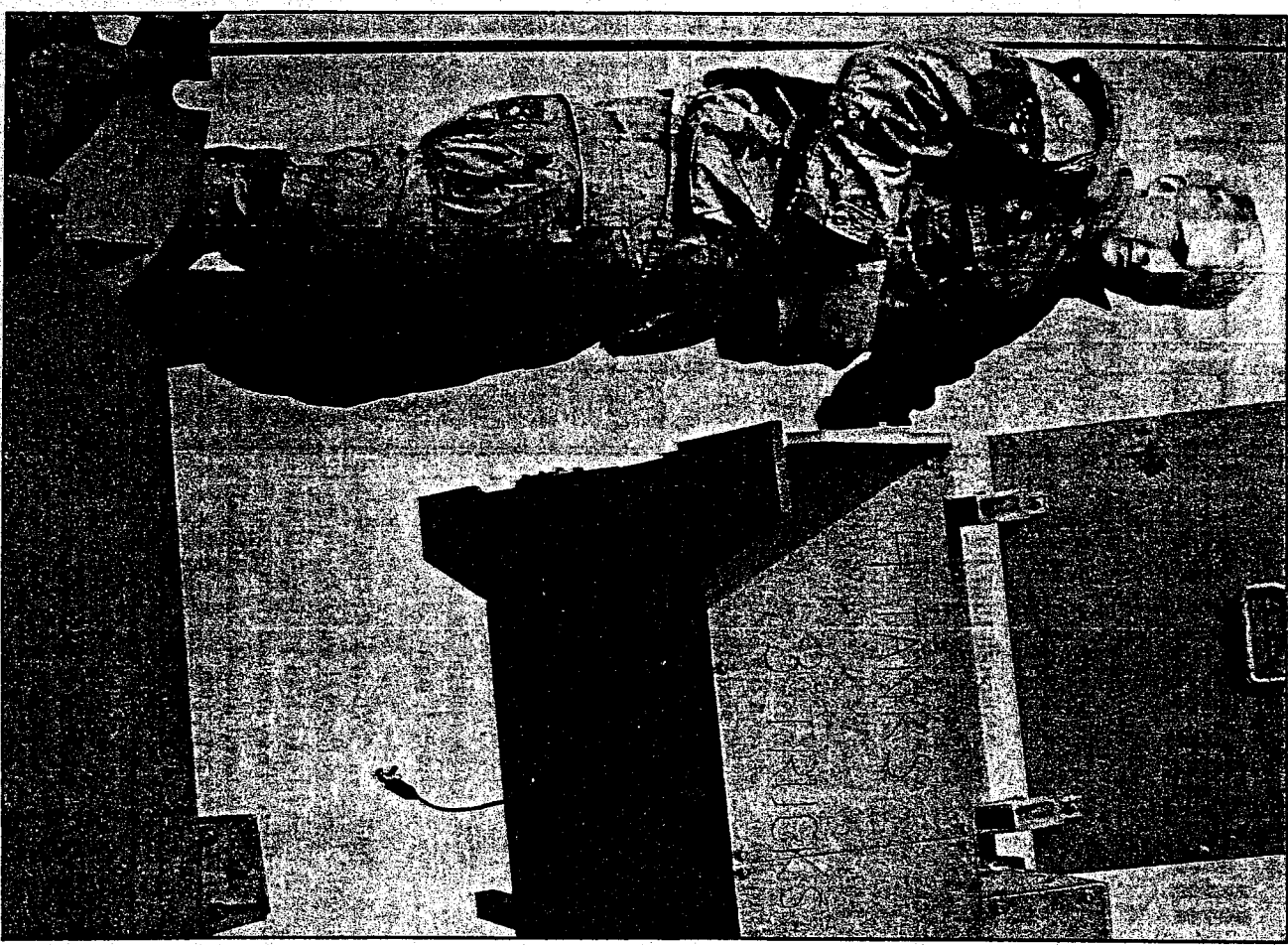
Night Patrols



Sgt. Robert C. Jenks

LCpl. Frank Steiner IV, a Charlie Co. TOW gunner marks his kills.

Sgt. Kenneth R. Pettigrew



TO: The Members

FROM: (b)(6) Sergeant, 178FA Andrews, SC, Retired, U.S. Army and
National Guard

DATE: July 14, 2004

BACKGROUND:

Sergeant Pittman is (b)(6)

I have known SGT Pittman for 23 years.

I have served in the military for 20 years.

I have hung out with SGT Pittman based on family.

I think of Gary as an excellent marine. I can't think of a better person that is fit to be a marine because Gary is a marine on and off the job. When I'm around him that's all he talks about is being a marine, the military, and how much he enjoys being in the marines.

In General I think of SGT Pittman as a great guy. When ever a person needs help, you can always call on Gary and he would be there time after time.

I see Gary at least 3 times a year.

Gary always comes to parties, barbeques, family reunions, graduations, funerals, and sometimes when they are not special occasions.

Gary's relationship with his entire family is magnificent. Whenever Gary is around he makes sure he acknowledges everyone. He leaves not a single person out. He is very great with kids.

(b)(6)

Gary likes being at the top, being with the best of the best. That is what motivated him to join the U.S. Marines Corps. He thinks that the Marine Corp is the highest branch of the military and that the marines set a high standard and he wanted to face that challenge. Just his passion to be the best made him want to be part of the best.

His service to his nation by serving in the military does not affect my opinion of him at all because he is a great person in or out of the military. I couldn't ask for a better person.

Gary's reputation in his hometown is exceptional. Whenever Gary comes home he makes everyone happy because he is always excited about his uniform and service to his country. He is always happy. He brings the joy wherever he goes.

A handwritten signature in cursive script, appearing to read "Ernest Franklin".

Ernest Franklin, Sergeant, 178FA Andrews, SC

SERGEANT PITTMAN DECORATIONS AND AWARDS

1. USMC GOOD CONDUCT MEDAL
2. ARMY GOOD CONDUCT MEDAL
3. USMCR GOOD CONDUCT MEDAL
4. U.S. RESERVE COMPONENT ACHIEVEMENT MEDAL
5. NAVY ACHIEVEMENT MEDAL
6. ARMY ACHIEVEMENT MEDAL
7. COMBAT ACTION RIBBON
8. PRESIDENTIAL UNIT CITATION RIBBON
9. NAVAL UNIT CITATION WITH STAR IN LIEU OF SECOND AWARD
10. U.S. MARINE CORPS EXPETIONARY MEDAL WITH STAR IN LIEU OF SECOND AWARD
11. NATIONAL DEFENSE SERVICE MEDAL WITH START IN LIEU OF SECOND AWARD
12. SOUTWEST ASIA SERVICE MEDAL WITH STARS IN LIEU OF SECOND AND THIRD AWARD
13. HUMATARIAN SERVICE MEDAL
14. SEA SERVICE DEPLOYMENT RIBBON WITH SILVER STAR IN LIEU OF FIFTH AWARD
15. ARMED FORCES RESERVE MEDAL WITH 2 DESIGNATOR, DESIGNATING TWO RESERVE MOBILIZATIONS
16. U.S. ARMY SERVICE RIBBON
17. U.S. ARMY OVERSEAS SERVICE RIBBON
18. KUWAITI LIBERATION MEDAL (SAUDI ARABIA
19. KUWAITI LIBERATION MEDAL (EMIRATE OF KUWAIT)
20. KOREA DEFENSE SERVICE RIBBON
21. GLOBAL WAR ON TERRORISM RIBBON

DEFENSE EXHIBIT Q

PAGE 1 OF 1

FID

NEW YORK

Chillin'

CHICAGO

L.A.

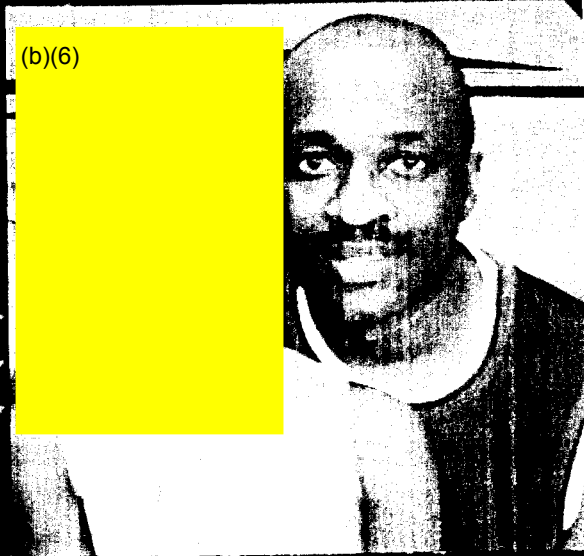
PHILLY

DETROIT

D.C.

Atlanta

(b)(6)



DEFENSE EXHIBIT

PAGE 1 OF 2

FID

ARRAIGNMENT AND TRIAL SCHEDULE

U.S. v. PITTMAN

Arraigned: 29 APRIL 04

MJ: LtCol Immel

Rptr: CHERRY

TC: MAJ Francis

DC: CAPT FOIK

Defense witness requests due: 15 June 04

Gov't response to witness requests due: 18 June 04

All motions due (NLT Tuesday of week before hearing): 22 June and 13 July 04

Answers to motions due: 25 June and 16 July 04

Members questionnaires due to defense: 6 Aug 04

Motions hearing date: 28 June and 28 July 04

Forum: (Selected/Reserved) If reserved, written notice due: _____

Forum selected: 28 July 04

Pleas: (Entered/Reserved) If reserved, written notice due: _____

Pleas entered: 28 July 04

Notice of certain defenses (innocent ingestion, alibi, etc.) due: 18 June 04

Proposed voir dire due (NLT noon, day before trial): 6 Aug 04

Trial Date: 9-27 August 04

TIA warning given? ☒ Yes/ No

Notes: _____

APPELLATE EXHIBIT 7

PAGE 1 OF 1

GENERAL COURT MARTIAL
UNITED STATES MARINE CORPS
SIERRA JUDICIAL CIRCUIT

UNITED STATES)	
)	
v.)	Government Motion for a Preliminary Ruling
)	on Evidence (Prisoner Abuse)
G.P. PITTMAN)	
(b)(6))	
Sergeant)	
U.S. Marine Corps Reserve)	

1. Nature of Motion. Pursuant to RCM 906(b)(13) and MRE 404(b), the government requests a preliminary ruling on the admissibility of evidence regarding the accused's uncharged history of assault on prisoners under his care and custody.

2. Summary of Facts. The accused is a Sergeant in the U.S. Marine Corps Reserve. His civilian occupation is a (b)(6). Approximately one month prior to the accused being called up on active duty in support of Operation Iraqi Freedom, he assaulted an inmate at the (b)(6). (b)(6). The prisoner, (b)(6), was under the accused's care and custody at the time.

On 5 February 2003, (b)(6) and a number of other prisoners were being gathered up to be taken to court. The accused and a (b)(6) (b)(6) were putting the prisoners in a line to ready them for transport to the courthouse. (b)(6) was placed in this line. (b)(6) was holding a file in his left hand. His right hand is debilitated. While (b)(6) was in line, Sgt Pittman approached him, looked at (b)(6) ID Card and then asked him in a sneering tone of voice where he was from. (b)(6) said nothing. The accused then shouted, "I hate Middle-Easterners! I fucking hate Middle-Easterners!"

APPELLATE EXHIBIT II

PAGE 1 OF 8

(b)(6) believed he was being discriminated against and asked Mr.

(b)(6) for the accused's name so he could file a complaint. The accused then rushed towards (b)(6) struck him in the chest, then grabbed him by the throat and dragged him about 20 feet, then shoved him against a wall. (b)(6) at no time made an aggressive movement towards the accused to provoke the attack. (b)(6) is much shorter and smaller than the accused. Eventually, (b)(6) calmed the accused down. (b)(6) was then taken to solitary confinement.

A few weeks later an investigation ensued after other inmates reported the assault on (b)(6). Statements were taken of the inmates, (b)(6) and the accused. The many inmates who were witnesses corroborated (b)(6) allegations. A statement was taken from the accused. He stated that (b)(6) made an aggressive gesture towards him which prompted retaliation in self-defense. The accused asked (b)(6) to make a statement similar to his. (b)(6) did so. Approximately one year later, on 2 February 2004, (b)(6) recanted his previous statement and corroborated (b)(6) allegations of unprovoked assault.

The accused is charged in our case with willful dereliction of duty and assault and battery of Mr. Nagem Hatab and other unknown Iraqis. On 3 June 2003, (b)(6) was captured by a 2nd Battalion, 25th Marines patrol. He was suspected to be involved in the ambush of the 507th Maintenance Battalion (Jessica Lynch battalion). He was believed to be suspected because he knew the whereabouts of a rifle of a U.S. soldier killed in that ambush. (b)(6) was captured and the rifle seized. During the capture (b)(6) did not resist. No one from the capturing unit in any way struck (b)(6) during his capture or transfer. (b)(6) was taken to the Camp Whitehorse detention facility near An

Nasiriyah, Iraq. This detention facility was maintained by Marines from 2/25. The accused was a guard at that detention facility. He was third in charge due to his experience in handling prisoners in his civilian job. (b)(6) was in processed into the detention facility at around 1900 on 3 June 2003.

After his initial in-processing, he was taken to isolation. Isolation consisted of requiring the detainees to remain standing approximately 50 minutes of every hour, while their hands were flexi-cuffed and heads covered with a sand bag. The purpose of it was to keep them awake all night so they would be more compliant with interrogators in the morning. (b)(6) was subject to this procedure. (b)(6) was a 52 year old, heavy-set man. During the first few hours, (b)(6) complied with the procedure. As the night wore on he resisted. He would sit down and would not get up even after guards would yell at him or try to lift him. Eventually, the guards on these shifts gave up and let him sit or lay down.

At 0400, on 4 June 2003, the accused came on his shift with LCpl's (b)(6) and (b)(6). They were told (b)(6) was not complying with the standing procedure. LCpl (b)(6) began to strike (b)(6) on the legs and back to get him up. (b)(6) rose to his feet due to the intensity of the strikes. LCpl (b)(6) is a man well over 6 feet tall and 200lbs. The cell where (b)(6) was kept was surrounded on the interior by concertina wire. Mr. Hatab roamed near the wire and got caught on it. LCpl (b)(6) freed (b)(6) from the wire and struck him in the legs and back forcing him back into the middle of the cell. (b)(6) cried out, "No, No, My Children, My Children! Basically, pleading with LCpl (b)(6) to stop striking him. LCpl (b)(6) then stated, "What about the children of the soldiers you killed from the 507th! At that moment, Sgt Pittman kicked (b)(6)

square in the chest and knocked him clear across the cell some 10 feet. He also punched (b)(6) in the chest. LCpl (b)(6) then told Sgt Pittman that they needed to get out of the cell before they seriously injured (b)(6).

About an hour later, (b)(6), (b)(6) and the accused noticed that Mr. (b)(6) was having trouble breathing and saw him clutching his chest near the area where he had been kicked by the accused. LCpl (b)(6) suggested that they get (b)(6) medical attention. The accused said that he would be checked if necessary when the corpsman made his rounds. Their shift ended at 0800. A corpsman did not examine (b)(6) until approximately 35 hours later.

During these 35 hours (b)(6) slowly deteriorated. He was observed by many other guards having trouble breathing. Appearing sick. Laying down and moaning. At about 1600 on 5 June 2003, (b)(6) defecated himself involuntarily. From 1600 to 2400 on the same day he defecated himself two more times. Just after midnight on 6 June 2003, he was discovered dead. An autopsy later revealed that (b)(6) (b)(6)

(b)(6) He also had a broken hyoid bone in his neck. All of these injuries were determined to be pre-death and received with 72 hours of death.

On 5 June 2003, the accused was observed by LCpl (b)(6) and a Sgt (b)(6) striking an unknown Sheik who was a prisoner at the facility. Sgt Pittman also allowed his subordinate LCpl (b)(6) to do the same. The strikes were unprovoked and were in the manner of knees, kicks and punches. Sgt (b)(6) over the next few days saw Sgt Pittman strike other detainees in the same manner, unprovoked. Sgt (b)(6)

approached the accused and told him the way he was treating the detainees was wrongful and in violation of the Geneva Convention. Sgt Pittman told him it was necessary to let the prisoners know who was boss and that his techniques in this regard were acceptable in his civilian job as a (b)(6)

3. Discussion. MRE 404(b) allows the government to present evidence of an accused previous misconduct if offered for purposes such as “proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. The government would like a preliminary ruling from the military judge that allows it to offer under MRE 404(b) the evidence regarding the assault on (b)(6) at trial through the testimony of (b)(6)

The government believes that this evidence is admissible under MRE 404(b) under one or more of the following theories: intent and/or plan and identity.

a. Intent.

The assault on (b)(6) should be admissible at the trial of the accused in the government’s case in chief to establish the intent of the accused as it relates to the assaults and dereliction of duty as to (b)(6) and the other unknown Iraqi detainees. The facts of the case will demonstrate the accused had specific intent to commit these offenses. The assault on (b)(6), the subsequent investigation, Sgt Pittman’s alleged false statement in that case, and his alleged involvement in (b)(6) giving a false report all indicate that Sgt Pittman knew his conduct as to (b)(6) was wrongful. His false exculpatory statement to Sgt (b)(6) indicating that unprovoked strikes on detainees were acceptable in his civilian job and thus justified is a clear indication of his consciousness of guilt and shows his specific intent. The prior

occurrence of an act offered under MRE 404(b) similar in its gross features to a charged offense may suffice for the purpose of negating innocent intent. U.S. v. Peterson, 20 MJ 806, 811 (NMCR 1985). The proper analysis is 1) does the evidence offered tend to show that the accused has engaged in offenses that involve similar misconduct and 2) whether the purpose for why it is purportedly offered is legitimate under 404(b). Id. In our case the accused clearly attempted to avoid culpability for his assaults on detainees by indicating his techniques in handling detainees at Camp Whitehorse were justified because these techniques were allowed in his civilian job as a (b)(6)

(b)(6) The evidence regarding the incident with Mr. (b)(6) and the subsequent investigation negates this proposed innocent intent but rather shows consciousness of guilt and should be allowed in the government's case in chief.

b. Plan and Identity.

MRE 404(b) allows the government to offer evidence of uncharged misconduct if the conduct will establish the identity of the culprit via a common scheme or plan. This type of evidence is typically referred to as "modus operandi." If the identity of a culprit is in doubt and there is extrinsic evidence that shows the accused has engaged in past acts similar in characteristics to the charged offense which would indicate the charged offense was the handiwork of the accused then the extrinsic evidence should be admissible. Id.

(b)(6) suffered numerous injuries due being assaulted by someone. Who caused these injuries will be the main question of the trial as to the offenses charged regarding (b)(6). According to LCpl (b)(6) Art. 32 testimony, it is likely the bulk of the injuries suffered by (b)(6) were inflicted by he and Sgt Pittman. The incidents as described by LCpl (b)(6) as to (b)(6) and the incidents described by Mr (b)(6) and

Mr. (b)(6) are similar in many important respects for a modus operandi analysis. (b)(6) was a prisoner under the care and custody of Sgt Pittman, so was (b)(6) (b)(6) was Middle-Eastern. Mr. (b)(6) was believed by Sgt Pittman to be Middle-Eastern. (b)(6) was vulnerable due to his age, being bound and being hooded. Mr. (b)(6) was vulnerable due to his size and his debilitated right hand. Sgt Pittman struck (b)(6) out of anger when (b)(6) made an outburst to LCpl (b)(6) (b)(6) was struck and choked out of anger when he made an outburst to Mr. (b)(6) LCpl (b)(6) had to tell Sgt Pittman to leave the cell. Mr. (b)(6) had to calm Sgt Pittman. After being told (b)(6) needed to see a corpsman, Sgt Pittman refused to seek medical attention in order to cover up his offense. Sgt Pittman lied to an investigator about the assault on Mr. (b)(6) These are six very important and vital similarities between the assaults on (b)(6) and Mr. (b)(6) Clearly, they show a pattern that identifies the likely assailant of (b)(6) was Sgt Pittman and his subordinates on 4 June 2004.

4. Relief Requested. The government requests that it be permitted to offer the testimony of Mr. (b)(6) Mr. (b)(6) and Mr. Turull in its case in chief under MRE 404(b).

5. Evidence. The government will provide the following evidence:

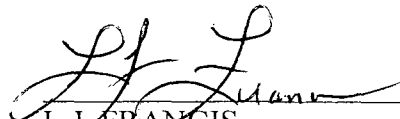
- a. Telephonic testimony of Mr. (b)(6)
- b. Telephonic testimony of Mr. (b)(6)
- c. Telephonic testimony of Mr. Turull;
- d. Telephonic or deposition testimony of Sgt (b)(6)
- e. Transcribed testimony of Cpl (b)(6) from Art. 32;
- f. Transcribed testimony of Cpl (b)(6) from Art. 32;

- g. Transcribed testimony of SSgt (b)(6) from Art. 32;
- h. Transcribed testimony of Sgt (b)(6) from Art. 32;
- i. Transcribed testimony of LtCol (b)(6) from Art. 32;
- j. Transcribed testimony of LCpl (b)(6) from Art. 32;
- k. Deposition testimony of LCpl (b)(6)
- l. Deposition testimony of LCpl (b)(6)
- m. Deposition testimony of LCpl (b)(6) ;
- n. Deposition testimony of Sgt (b)(6) ;
- o. Autopsy report ico (b)(6) ;
- p. Copy of Investigation into incident regarding Mr. (b)(6)

6. Oral Argument. The government does desire oral argument in support of this motion.


22 June 04

Date


L.J. FRANCIS
Major, USMC
Trial Counsel

.....

I certify that on 22 June 2004, I caused a copy of this motion to be served on the defense counsel via electronic mail.


L.J. FRANCIS
Major, USMC
Trial Counsel

Battalion, Twenty-Fifth Marine Regiment (hereinafter, "2/25") assigned to work as a guard at the Camp Whitehorse Detention Facility, located in An Nasiriyah, Iraq, in April 2003. Sergeant Pittman worked at Camp Whitehorse until July 2003.

One of the detainees that stayed at Camp Whitehorse was an Iraqi, (b)(6) (b)(6) was captured during a raid conducted by Weapons Company, 2/25. (b)(6) was brought to Camp Whitehorse shortly after his capture on 3 June 2003. Following his capture he was strip-searched, interrogated, and detained at Camp Whitehorse. Sometime on the early morning of 6 June 2003 (b)(6) was found dead in the recreation area of the Camp Whitehorse detention facility.

Sergeant Pittman is charged with violating articles 92 and 128 of the UCMJ. Specifically, he is charged with assaulting (b)(6) assaulting various unnamed Iraqis, and dereliction of duty towards both (b)(6) and various unnamed prisoners. The government has provided the defense with an investigation that contains some evidence that while acting as a federal correctional officer Sergeant Pittman was involved in a situation requiring the use of physical force against a federal prisoner, (b)(6) while on duty in a federal prison.

The evidence regarding Sergeant Pittman's alleged misconduct in February 2003 will be used by the government only to demonstrate that Sergeant Pittman is predisposed to commit crimes and suggest to the fact finder that they infer Sergeant Pittman has a predisposition to commit crimes.

3. **Discussion:** The allegations of the inappropriate use of force by Sergeant Pittman while employed as a federal correctional officer, with regard to (b)(6) is inappropriate and inadmissible evidence that the government intends to use to illustrate Sergeant Pittman's predisposition to commit crime.

Under 404(b) evidence of misconduct must be offered for a purpose other than to demonstrate the accused's predisposition to commit crime and thus suggest that the fact finder infer that he is guilty as charged due to this predisposition to commit crime. U.S. v. Tanksley, 54 M.J. 169, 175-176 (2000). Evidence which is offered simply to prove that an accused is a bad person is not admissible under M.R.E. 404(b), MANUAL for COURTS-MARTIAL, United States (2002 ed.); U.S. v. Diaz, 59 M.J. 79 (CAAF 2003); U.S. v. Reynolds, 29 M.J. 105, 109 (C.M.A. 1989); M.R.E. 404(b). There is a three-pronged test for determining admissibility of other-acts evidence under M.R.E. 404(b). First, whether "the evidence reasonably supports a finding by the court members that an individual committed prior crimes, wrongs or acts;" second, "what fact of consequence is made more or less probable by the existence of this evidence;" and third, whether "the probative value [is] substantially outweighed by the danger of unfair prejudice[.]" Id. "If the evidence fails any of the three tests, it is inadmissible." U.S. v. Cousins, 35 MJ 70, 74 (CMA 1992).

In determining whether the Government has introduced sufficient evidence to meet Rule 104(b), the trial court neither weighs credibility nor makes a finding that the Government has proved the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the jury could reasonably find the conditional fact . . . by a preponderance of the evidence. Huddleston v. U.S., 485 U.S. 681, 690 (1988). The evidence proffered by the government in this case fails to meet any prongs of this three-pronged test and as a result is inadmissible.

The evidence regarding Sergeant Pittman's use of force as a federal correctional officer does not make any fact of consequence to the charges he is facing more or less likely and as a result is not admissible. Evidence of other acts under 404(b) must relate to a specific "fact that is of consequence to the action which is made more or less probable by the existence of this evidence,

other than to show that the accused is predisposed to commit crime." MIL. R. EVID. 401 MANUAL for COURTS-MARTIAL, United States (2002 ed.); U.S. Ferguson, 28 M.J. 104, 108 (C.M.A. 1989). The government must show *specifically* what issue it is trying to prove in order to see whether the evidence is probative. Accordingly, "broad talismanic incantations of words such as intent, plan, or modus operandi, to secure the admission of evidence of other crimes or acts by an accused at a court-martial under Mil.R.Evid. 404(b)"; are not allowed. Whether or not evidence is admissible for any of the purposes outlined in M.R.E 404(b) is a "function of the similarity of the extrinsic offense to the offense charged." U.S. v. Peterson, 20 M.J. 806, 811 (N-M.C.C.A. 1985) citing U.S. v. Beechum, 582 F.2d 898, 910 (5th Cir. 1978). The degree of similarity necessary fluctuates with the purpose for which the evidence is offered. Peterson, 20 M.J. at 811 citing Beechum, 582 F.2d at 911. The government's proffered bases for admitting the evidence against Sergeant Pittman, to show his intent, plan, and identity, do not bear sufficient similarity to the offenses with which Sergeant Pittman is charged and as a result are inadmissible.

The acts alleged to have taken place at the Brooklyn detention facility by (b)(6) are not probative of Sergeant Pittman's intent as it relates to either dereliction of duty or the assaults alleged to have taken place in Iraq. The standard to evaluate the admissibility of extrinsic bad acts evidence to prove intent requires a degree of similarity only insofar as the acts are sufficiently alike to support an inference of criminal intent. Peterson at 812. There are insufficient similarities between the allegations of improper use of force by a Sergeant Pittman as a federal prison guard and the allegations of assault and dereliction of duty by Sergeant Pittman as a guard at an EPW camp to make the extrinsic evidence admissible to prove intent. Furthermore, courts have indicated their preference for waiting until the conclusion of the defense case before determining whether to admit extrinsic bad acts evidence in order to best measure the government's need for that evidence.

Peterson *supra* at 814, citing U.S. v. Adderly, 529 F.2d 1178, 1182 (5th Cir.1976); U.S. v. Danzey, 594 F.2d 905, 912 (2d Cir. 1979); U.S. v. Leonard, 524 F.2d 1076, 1092 (2d Cir. 1975), cert. Denied 425 U.S. 958 (1976). The

The evidence of the alleged assaults from Brooklyn does not bear a sufficient level of similarity to the alleged offenses in Iraq to allow its admission for purposes of proving *modus operandi*. In order to be admissible to prove *modus operandi* the high degree of similarity of the extrinsic offense to the offense charged is the crucial consideration. The offenses must be so similar in physical characteristics as to constitute being like a signature marking the offenses as the handiwork of the accused. Peterson, *supra* at 811 n.2. citing Beechum, *supra* at 912 n.15. This extremely close similarity is required because evidence of *modus operandi* is probative of the identity of an accused. The extrinsic acts evidence that the government is attempting to admit deals with allegations of improper use of force as a federal correctional officer working in Brooklyn, NY. There are no similarities between the allegations of improper use of force by Sergeant Pittman as a correctional officer and the allegations of assault and dereliction of duty by Sergeant Pittman as a Marine in Iraq that qualify as "a signature marking the offenses as the handiwork of the accused." Peterson, *supra*. The extrinsic act evidence is not admissible to prove *modus operandi* or plan by Sergeant Pittman.

Courts have expressed "concern . . . with the dangers in admitting such evidence even if it meets the requirements of Mil.R.Evid. 404(b). See Mil.R.Evid. 403," United States v. Brannan, 18 MJ 181, 185 (CMA 1984). The government's evidence regarding Sergeant Pittman's actions as a federal correctional officer fail to provide any proof of Sergeant Pittman's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, with regard to the charges of dereliction of duty and assault that he faces. There is insufficient similarity between the

extrinsic act evidence and the charged Iraq offenses to support the government's bases proffered to support the admission of the extrinsic bad acts evidence. As a result, the evidence regarding Sergeant Pittman's use of force towards (b)(6) while Sergeant Pittman worked as a federal correctional officer is inadmissible.

The prejudicial effects of the evidence of Sergeant Pittman's conduct as a federal correctional officer substantially outweighs its probative effect and as such is inadmissible. The court must carefully determine the unduly prejudicial nature of the evidence when making this three-part analysis. U.S. v. Castillo, 29 M.J. 145, 151 (C.M.A. 1989). This evidence of alleged misconduct by Sergeant Pittman has a substantial prejudicial effect. It paints Sergeant Pittman's actions as a correctional officer as criminal, makes him appear to have a practice of using excessive force against detainees, and provides nothing to make any facts of consequence to this case more or less likely. This prejudicial impact is more pronounced in light of the fact that Sergeant Pittman's actions in both circumstances relate to his execution of duties as a correctional officer.

Prison officials should be "accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." Bell v. Wolfish, 441 U.S. 520 547 (1979). "This deference extends to a prison security measure taken in response to an actual confrontation with riotous inmates, just as it does not prophylactic or preventive measures intended to reduce the incidence of these or any other breaches of prison discipline. It does not insulate from review actions taken in bad faith and for no legitimate purpose, but it requires that neither judge nor jury freely substitute their judgment for that of officials who have made a considered choice." Whitley v. Albers, 475 U.S. 312, 322 (1986). "Federal courts ought to afford appropriate deference and flexibility to [prison] officials trying to manage a volatile environment." Sandin v. Conner, 515 U.S. 472, 482

(1995). Sergeant Pittman's actions as a federal correctional officer, to include those taken with regard to (b)(6) should be given great deference. Using evidence of actions that Sergeant Pittman took (b)(6)

(b)(6)

The evidence regarding the allegations that Sergeant Pittman (b)(6) (b)(6) shows only that he is predisposed to commit crimes and does not make any facts of consequence to this court martial more or less probable. Force is deemed legitimate and justified in a custodial setting as long as it does not involve the "unnecessary and wanton infliction of pain" in violation of the Eighth Amendment. Estelle v. Gamble, 429 U.S. 97, 103 (1976), citing Gregg v. Georgia, 428 U.S. 153, 173 (1976). The Court of Appeals for the Armed Forces has observed that the Supreme Court's interpretation of the Eighth Amendment applies to a claim under Article 55 of the UCMJ (which prohibits cruel and unusual punishment). U.S. v. White, 54 M.J. 469 473 (C.A.A.F. 2001). To determine if an application of force involves the unnecessary and wanton infliction of pain, both objective and subjective components must exist: (1) "the deprivation [or injury] alleged must be, objectively, 'sufficiently serious', and (2) the prison official "must have a 'sufficiently culpable state of mind'." Farmer v. Brennan, 511 U.S. 825, 834 (1994) Under the objective prong, the absence of a showing of pain or injury will undermine the claim of excessive use of force. U.S. v. Sanchez, 53 M.J. 393, 395-96 (2000). Under the subjective prong, the question turns on whether force is applied "in a good faith effort to maintain or restore discipline [and not] maliciously and sadistically for the very purpose of causing harm." Whitley v. Albers, 475 U.S. 320-321. In Farmer, the Court made clear that the use of the "malicious or sadistic" standard was appropriate in excessive force cases in part because the decision to use force is generally "made in haste, under pressure, and frequently without the luxury of a second chance."

Id. at 835. In light of the deference accorded to the use of force by correctional officers the admission of evidence of Sergeant Pittman's conduct as a correctional officer will have an enormously prejudicial impact since members will not have the benefit of discretion afforded to federal judges viewing such evidence. This evidence that the government wishes to admit under 404(b) will be used to show that Sergeant Pittman is a bad person and is not admissible.

4. **Nature of Relief**: The defense requests that all evidence of the assault allegations stemming from the incident between Sergeant Pittman and (b)(6) ruled inadmissible.

5. **Evidence**: The defense has attached documentary evidence to this motion. The defense will provide documentary and testimonial evidence on this motion.


J. TRANBERG


W. A. FOLK

I CERTIFY THAT I SERVED A COPY OF THIS BILL OF PARTICULARS ON
GOVERNMENT COUNSEL ON 25 June 2004 VIA ELECTRONIC MAIL.


W. A. FOLK

APPELLATE EXHIBIT III

PAGE 4 OF 8

GENERAL COURT MARTIAL
UNITED STATES MARINE CORPS
SIERRA JUDICIAL CIRCUIT

UNITED STATES)
)
v.) Government Motion for a Preliminary Ruling
) on Evidence (Testimony of SSgt (b)(6))
G.P. PITTMAN)
(b)(6))
Sergeant)
U.S. Marine Corps Reserve)

1. Nature of Motion. Pursuant to RCM 906(b)(13), Article 49(d)(2), UCMJ and MRE 804(a)(6) the government requests that the military judge order an instant hearing in order to take the testimony of SSgt (b)(6) so the transcribed testimony can be used at trial.

2. Summary of Facts. SSgt (b)(6) is assigned to 2d Intelligence Battalion, II Marine Expeditionary Force (2d Intel Bn). He is scheduled to deploy in support of Operation Iraqi Freedom II (OIF II) in July 2004. He is a vital witness in the case against the accused and due to his scheduled deployment will be unavailable for trial. He was involved in the capture and interrogation of (b)(6) one of the alleged victims of the accused. SSgt (b)(6) would testify that (b)(6) was captured due to his suspected involvement in the ambush of the 507th Maintenance Battalion, U.S. Army, (Jessica Lynch battalion). (b)(6) was found with a rifle belonging to a U.S. Soldier who was killed in that ambush. SSgt (b)(6) testified at the Art. 32 that (b)(6) appeared healthy when captured. He also testified that (b)(6) did not resist capture and the capture was done peacefully. He also testified that he observed no one in the capturing unit strike (b)(6) in any manner.

Additionally, he testified that (b)(6) appeared healthy on 3 June 2003 when handed over to the Camp Whitehorse Detention Facility of which the accused was a guard. Lastly, he testified at the Art. 32 that he took part in an interrogation of (b)(6) the morning of 4 June 2003. He considered (b)(6) an important source of intelligence after that interrogation concluded and he intended to re-interview him on the morning of 6 June 2003 but was unable because (b)(6) was dead. An autopsy of Mr. (b)(6) found that he suffered (b)(6) and a broken hyoid bone all of which were pre-death injuries.

3. Discussion. MRE 804(b)(1) allows a party to offer the former testimony of a witness if that witness is unavailable for trial. The consideration is 1) whether the party is indeed unavailable and 2) whether the former testimony was taken in a proceeding where the other party had a similar opportunity to “develop the testimony by direct, cross or redirect examination. As indicated in Art. 49(d)(2), UCMJ, military necessity is one consideration as to whether a witness is unavailable. SSgt (b)(6) is needed to deploy in support of OIF II. His expertise is needed to make 2d Intel Bn’s mission a success. Thus, he satisfies the first prong of the analysis because he is indeed unavailable.

To satisfy the second prong the government requests that the judge order an instant hearing to take place during a 39a session to take the testimony of SSgt (b)(6), which can be transcribed and made ready for the trial. SSgt (b)(6) will be available at the motions hearing to accomplish this.

4. Relief Requested. The government requests that it be permitted to offer the testimony of SSgt (b)(6) from the above requested 39a session at the trial.

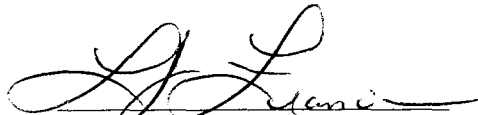
5. Evidence. The government will provide the following evidence:

- a. Testimony of SSgt (b)(6)
- b. Art. 32 transcribed testimony of SSgt (b)(6)
- c. Letter from Legal Officer, 2d Intel Bn.

6. Oral Argument. The government does desire oral argument in support of this motion.

22 June 04

Date



L.J. FRANCIS
Major, USMC
Trial Counsel

.....

I certify that on 22 June 2004, I caused a copy of this motion to be served on the defense counsel via electronic mail.



L.J. FRANCIS
Major, USMC
Trial Counsel

GENERAL COURT MARTIAL
UNITED STATES MARINE CORPS
SIERRA JUDICIAL CIRCUIT

UNITED STATES)

v.)

G.P. PITTMAN)

(b)(6))

Sergeant)

U.S. Marine Corps Reserve)

Answer to Governments Motion for a
Preliminary Ruling on Evidence
(Testimony of SSgt (b)(6))

1. *Nature of the Answer:* The defense requests that the military judge denies the governments request and take the testimony of SSgt (b)(6) so that the transcribed testimony can be used at trial.
2. *Summary of Facts:* The defense agrees with the government's recitation of the facts.
3. *Discussion:* The defense agrees that MRE 804(b)(1) does allow a party to offer the former testimony of a witness if that witness is unavailable for trial. The mere fact that SSgt (b)(6) is to deploy does not make him unavailable as it relates to the right of confrontation at trial which is accorded the accused in a court marshal pursuant to the 6th Amendment of the Constitution of the United States.

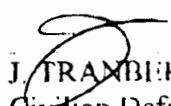
In response to the government's contentions that the second prong of the government request can be satisfied in a 39a session with a deposition with SSgt (b)(6) on the date of this motion hearing fails, in that, the defense has not had a similar opportunity to "develop the testimony by direct, cross or redirect examination." To date, the defense has not been afforded the opportunity to review the witness's SRB, nor has the defense been provided the SRB's of other witnesses in the same unit as SSgt (b)(6) or the transcript of the deposition testimony needed to prepare for proper cross examination. In addition, discovery requests remain outstanding which may change

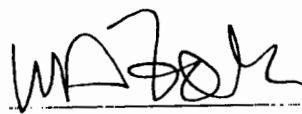
the nature of questions in the examination of SSgt (b)(6). This process, as well, deprives the members of court the important opportunity to observe the demeanor of this witness while testifying.

4. Relief Requested: For the forgoing reasons the defense respectfully requests that the government motion be denied.

5. Evidence: The defense may present evidence as it becomes relevant.

6. Oral Argument: The defense requests oral argument. The defense may present evidence as it becomes relevant.


J. TRANBERG
Civilian Defense Counsel


W.A. FOLK
Detailed Defense Counsel

Certificate of Service

I certify that a true copy of this motion was served on opposing counsel on this 25th day of June, 2004.


W. A. FOLK